

CONFIDENTIAL.

(5969.)

F.O.

403

PART I.

CORRESPONDENCE

RESPECTING THE

AFFAIRS OF TUNIS.

112

August 1888 to December 1889.

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CONFIDENTIAL.

Correspondence respecting the Affairs of Tunis.

No. 1*.

Acting Consul Carbonaro to the Marquis of Salisbury.—(Received August 11.)

(No. 16. Commercial.)

My Lord,

Tunis, August 3, 1888.

ACCORDING to Article IV of the Convention of 1863 between England and Tunis, all cases of litigation respecting immovable property, &c., between a British and a Tunisian subject, shall be referred for adjudication to the competent legal Tribunals, and the condemned party shall have the right to appeal to the Courts constituted for that purpose until the appeal shall have reached the Mezlis-el-Akhar ("Legislative Assembly"), and whatever decision might be given by the last Tribunal, the authority of the condemned party shall carry it out.

The French Tribunal on several occasions considered the local as foreign Tribunals, and therefore their decisions could not be carried out before they were sanctioned by the President of the said French Tribunal, which was confirmed by the Court of Appeal at Algiers.

A Decree of the President of the French Republic, dated Paris, 17th July, 1888, inserted in the Tunis official journal of the 26th July, 1888, copy of which I have the honour to inclose herewith, revokes the authority of the French Tribunal to review the decision ("immatriculation") issued by the Mixed Tribunal, which is a local Tribunal instituted by a Beylical Decree—that is, the Decree of the President of the French Republic authorizes the local authorities to carry out its decisions without the sanction of the French Tribunal, or, in other words, British subjects are submitted to the jurisdiction of the Bey, which is contrary to the Convention of 1863, as confirmed by the Treaty of 1875.

I have, &c.
(Signed) G. CARBONARO.

Inclosure in No. 1*.

Extract from the "Journal Officiel Tunisien" of July 26, 1888.

Rapport au Président de la République Française.

M. le Président,

PARMI les réformes que le Bey, par la Convention du 8 Juin, 1883, conclue avec le Gouvernement de la République, s'est engagé à entreprendre dans la Régence de Tunis et qui sont aujourd'hui en voie d'exécution, celle qui a pour objet la constitution de la propriété foncière, peut être considérée comme présentant une importance particulière, tant au point de vue de nos compatriotes et des étrangers établis en Tunisie qu'en ce qui concerne les indigènes eux-mêmes.

Cette réforme, accomplie depuis deux ans, suivant les vues du Gouvernement de la République, donne aux propriétaires de toute nationalité la faculté de placer

leurs immeubles sis en Tunisie sous le régime d'une Loi spéciale et sous la juridiction des Tribunaux Français, à charge de les soumettre préalablement à l'immatriculation que prononce un Tribunal Mixte, composé de quatre Magistrats Français et trois indigènes.

Cette procédure, qui a l'avantage de donner toute sécurité à nos colons, et de ménager en même temps les droits acquis et les usages des indigènes, a soulevé, dans son application, une question qu'il importe de ne pas laisser en suspens. On s'est demandé si les juridictions Françaises n'avaient pas le droit ou même le devoir de réviser et au besoin de modifier, quand ils leur seraient présentés, les titres de propriété foncière en suite de la décision du Tribunal Mixte. Le droit de révision, en suspendant l'effet d'immatriculation, aurait pour conséquence de laisser subsister l'incertitude dans laquelle se trouve actuellement la propriété dans la Régence et que la nouvelle Loi Immobilière avait précisément pour objet de faire cesser. Il entraînerait par conséquent, aussi bien en ce qui concerne l'intérêt des propriétaires qu'au point de vue de l'ordre public, les plus graves inconvénients.

Afin de prévenir toute possibilité d'un malentendu à ce sujet, nous avons pensé qu'il y avait lieu de préciser le caractère irrévocable, à l'égard de nos juridictions, des décisions du Tribunal Mixte. C'est pourquoi nous vous proposons d'user des pouvoirs qui vous ont été donnés en matière de réforme judiciaire dans la Régence par l'Article 1^{er} de la Convention du 8 Juin, 1883, sanctionnée par la Loi du 9 Avril, 1884, pour déterminer d'une manière indiscutable la valeur des titres de propriété des immeubles immatriculés et les conditions dans lesquelles, d'un commun accord entre le Gouvernement du Bey, la compétence immobilière en Tunisie a été conférée aux Tribunaux Français.

Si vous voulez bien partager cette manière de voir nous vous prions de revêtir de votre approbation le Décret joint au présent Rapport.

Nous vous prions d'agréer, &c.

Le Ministre des Affaires Étrangères,
(Signé) RENÉ GOBLET.

Le Garde des Sceaux,
Ministre de la Justice et des Cultes,
(Signé) J. FERROUILLAT.

Le Président de la République Française,
Sur le Rapport du Ministre des Affaires Étrangères, et du Garde des Sceaux,
Ministre de la Justice et des Cultes,
Vu la Loi du 27 Mars, 1883;
Vu la Loi du 9 Avril, 1884;

Décète :

Article 1^{er}. Les droits réels sur les immeubles immatriculés sont régis par les Lois Tunisiennes spécialement édictées pour cette catégorie d'immeubles, et les litiges y relatifs ressortiront aux juridictions Françaises dans la Régence.

Art. 2. Le titre dressé en suite de la décision du Tribunal Mixte prononçant l'immatriculation est définitif et inattaquable; il formera, devant les juridictions Françaises, le point de départ unique de la propriété et des droits réels qui l'affectent, à l'exclusion de tous autres droits non inscrits.

Les inscriptions portées ultérieurement sur ces titres feront foi devant les mêmes juridictions dans les limites fixées par les Lois qui régissent en Tunisie les immeubles immatriculés.

Art. 3. Le Ministre des Affaires Étrangères et le Garde des Sceaux, Ministre de la Justice et des Cultes, sont chargés, chacun en ce qui le concerne, de l'exécution du présent Décret.

Fait à Paris, le 17 Juillet, 1888.

(Signé) CARNOT.

Par le Président de la République :

Le Ministre des Affaires Étrangères,
(Signé) RENÉ GOBLET.

Le Garde des Sceaux,
Ministre de la Justice et des Cultes,
(Signé) J. FERROUILLAT.

CONFIDENTIAL.

Correspondence respecting the Affairs of Tunis.

No. 1.

The Marquis of Salisbury to Mr. J. G. Kennedy.

(No. 172. Confidential.)

Sir,

Foreign Office, August 17, 1888.

THE Italian Ambassador called upon me to-day, principally to speak about the question of the Capitulations in Tunis. Italy had, he said, surrendered the point of Consular jurisdiction, but she was not disposed to give up the rest.

I stated the general policy of Her Majesty's Government on the subject, and referred his Excellency to what had been done in the case of Bosnia and Cyprus, and as to our own interests in Tunis.

His Excellency drew a distinction between the cases of Tunis and the other two, pointing out that the Government was still Mussulman, though to a great extent under French guidance, whereas the Governments in Cyprus and Bosnia were entirely Christian.

I admitted that there was this distinction, and that it might furnish ground for some compromise. I stated, however, that the matter was not one which we considered of capital importance, or which could interest this country; and I added that if I were an Italian, I should not consider it of sufficient importance to Italy to be insisted upon by the Italian Government.

His Excellency seemed to agree with me in this estimate, but said that public opinion in Italy would be much affected by the abolition of the Capitulations, although the most effective portion of them had been abandoned for some years.

Count Robilant then questioned me with respect to the rumours that prevailed as to the intentions of France to annex Tunis, and as to the course which England in such a case would pursue.

I replied that, from my conversations with M. Waddington, I understood that the French Government had no such intention, though he had admitted that a party in France were in favour of it.

I said that we should object to it very strongly, especially in view of the control it would give over the port and arsenal of Biserta; but I had little doubt that we should be willing to join the other Powers in a protest against it, which I thought would prevent France from proceeding with the idea.

His Excellency pressed me as to ulterior action.

I said that it must depend very much upon public opinion in this country; that it was too soon to bind ourselves hypothetically with respect to such a contingency.

His Excellency then asked me my opinion with regard to the designs for annexing Tripoli, which had been attributed to France.

I said that they had been energetically repudiated by M. Waddington, who spoke of such a policy as diametrically opposed to that which Frenchmen of all parties desired to follow; but I said that the French were apt to entertain similar suspicions of Italian designs.

His Excellency told me he was satisfied that there was no ground for such a suspicion, and had given an assurance to that effect to the Sultan; but he had informed His Imperial Majesty that Italy could not suffer that Tripoli should pass into the hands of any other Power whatever.

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I observed that we, too, in view of the effect on the Suez Canal and in Egypt, should regard such an event as very grave indeed.

I am, &c.
(Signed) SALISBURY.

No. 2.

The Marquis of Salisbury to Mr. Egerton.

(No. 412 A.)

Sir,

Foreign Office, August 18, 1888.

THE French Ambassador called at the Foreign Office to-day, and inquired what opinion he had expressed to the Italian Government with respect to the question of the Capitulations at Massowah and at Tunis.

I replied that as to Massowah I had stated to the Italian Ambassador, as I had stated to M. Waddington, that we conceived that in the case of territory administered by a Christian and civilized Power, the existence of the Capitulations could not be justified.

With respect to Tunis, I had not expressed any opinion as to the legal justification of the present proposal of the French Government; but I had stated that, from an Italian point of view, I should not contest the abolition of the scanty remnant of the Capitulations which Italy had not as yet surrendered. I observed, however, that the Italians drew a distinction between the cases of Bosnia and Cyprus, which were administered by a Christian Power, and that of Tunis, in which the governing Power was still in a large degree Mussulman. I had not advised them to press this view, as it was hardly in the interests of Italy to insist on the importance of the Government of Tunis being entirely Christian. It could only become so by the annexation of Tunis to France, a step to which Italy would be vehemently opposed, and to which, I added, England would have very strong objection also. M. Waddington immediately replied that France had no intention whatever of taking such a step.

I am, &c.
(Signed) SALISBURY.

No. 3.

Memorandum by Sir E. Hertslet as to the Jurisdiction of the Bey of Tunis in Matters affecting Real Property belonging to British Subjects.

Acting
Consul
Carbonaro,
No. 16,
Commercial,
August 3,
1888.
Treaty
No. 474.

ACTING CONSUL CARBONARO forwards a Decree of the President of the French Republic revoking the authority of the French Tribunal to review the decisions of the Mixed Local Tribunals in cases affecting real property, in consequence of which revocation British subjects are in future to be submitted to the jurisdiction of the Bey, which he states is contrary to the Convention between Great Britain and Tunis of the 10th October, 1863.

Article IV of that Convention is worded as follows:—

"IV. All cases of litigation respecting immovable property, and relating to the ownership or occupation of houses or lands, between a British and Tunisian subject, shall be referred for adjudication to the competent legal Tribunals, whose summons for the appearance of the British subject shall be transmitted through the British Consul-General, or, in his absence, through his deputy, in order that he or his deputy may be present at the trial. And the condemned party shall have the right to appeal to the Courts constituted for that purpose, until the appeal shall have reached the Meglis Elakbar (Legislative Assembly); and whatever decision might be given by the last Tribunal, the authority of the condemned party shall carry it out. But in cases where the dispute is between British subjects, it shall be optional for them, or either of them, to have their difference heard and determined by their Consul-General, or his deputy, whose decision, however, shall be governed by the laws and usages of the country, so far as they can be ascertained, and so far as the conditions expressed in the contract will permit."

The Convention of 1863 was confirmed by the Treaty of the 19th July, 1875, in the following words:—

"Art. XLII. The stipulations of the present Convention shall come into immediate

Treaty
No. 586.

operation, and shall be substituted for the stipulations of all preceding Treaties between Great Britain and Tunis, with the exception of the Convention of the 10th October, 1863, already referred to in Article XVII preceding, which is renewed and confirmed."

That Article (XVII) declared it to be understood that "Manufactories and their appurtenances, being immovable property, should be subject to the Convention of the 10th October, 1863, relative to the permission granted to British subjects to hold real property in the Regency of Tunis."

On the 12th May, 1881, a Treaty was concluded between France and Tunis, by Article IV of which the French Government expressly guaranteed the execution of the Treaties then existing between the Government of the Regency and the different European Powers, and M. Barthélemy St. Hilaire, in his note to Lord Lyons of the 16th of the same month, repeated the assurances which he had given to his Excellency verbally, that all the then existing Conventions between Tunis and foreign Powers would be maintained and respected; and this assurance was taken note of by Her Majesty's Government in Lord Granville's despatch to the French Ambassador of the 20th May, 1881, in which it was stated that it would be regarded as an international engagement binding upon the French Government in the future.

The Law Officers have consequently expressed their opinion that, by the Treaty of 1881, the French Government are bound by all the Treaty obligations of the Bey.

Count d'Aunay also informed Lord Granville on the 20th July, 1883, in answer to his Lordship's inquiry as to what was to be the state of the law as to immovable property, having regard to the vested interests of the then holders of land, and to the provisions of the Anglo-Tunisian Convention of the 10th October, 1863, and to Article IV of the Treaty between France and Tunis of the 12th May, 1881, that, as regarded the system of real property, and the application of the laws which related to it, no modification was made in the former system, the *French Tribunals being simply substituted for the Consular Tribunals*; and that no change was made in the conditions and forms of contracts, nor was there anything derogatory to acquired rights, or to the system established by the Convention of the 10th October, 1863.

On the 6th June, 1882, a Tunisian Decree was issued appointing two Commissions, one for assessing the value of house property in the several towns of the Regency, and the other for revising the assessment when it was objected to as excessive; and although Her Majesty's Government considered this to be of a retrograde character, they did not consider it to be opposed to actual Treaty stipulations, inasmuch as the provisions applied to natives and to foreigners alike. On the 8th November, 1887, however, these two Commissions were, by another Decree, which was signed by the French Chargé d'Affaires, abolished, and it was then declared that the party who considered himself overcharged must submit his reclamation to the "Juge de Paix," who would give his decision, from which there was to be no appeal, on a simple statement, either in writing or orally, of the complainant.

The Italian Government protested against the Decree of the 8th November, 1887, as being contrary to their Protocol with France of the 25th January, 1884, and asked Her Majesty's Government to support their protest; but as it was considered that this Decree merely applied to the imposition of taxes on real property, to be paid by natives and foreigners alike; and as it was said to be in contemplation to make some change in the then existing Regulations regarding the holding by foreigners of real property in Tunis, Her Majesty's Government considered it would be premature to join in the protest of the Italian Government against the Decree of the 8th November, 1887.

On the 11th July, 1887, another Tunisian Decree was issued, making the conditions on which British, Italian, and French subjects held real property the same, and one of the conditions was that such property should be held subject to the Municipal Regulations of the Tunisian Government.

But by the Decree of the 17th July last, British subjects are in future to be submitted to the jurisdiction of the Bey, and Acting Consul Carbonaro points out that this change would be opposed to the stipulations of the Convention of the 10th October, 1863; and I concur in that view, for although Article III of that Convention says that every proprietor of houses, magazines, or other tenements shall conform to the Municipal Regulations, Article IV expressly states that: "All cases of litigation respecting immovable property, and relating to the ownership or occupation of houses or lands, between a British and a Tunisian subject, shall be referred for adjudication to the competent legal Tribunals . . . ; the condemned party shall have the right of appeal to the Courts constituted for that purpose until the appeal shall have reached the Meglis Elakbar (Legislative Assembly);" and that whatever decision

Parliamentary
No. 2415,
p. 52.
"Tunis
No. 6
(1881)."
Parliamentary
No. 2415,
p. 45.
Ibid., p. 55.

Law Officers
April 28,
1886.
"Tunis
No. 1
(1884)."
Parliamentary
Paper
No. 2767.

In Consul
Sandwich's
No. 17, De-
cember 14,
1887.

To Mr. Ken-
nedy, No. 47,
February 25,
1888.

might be given by the last Tribunal, the authority of the condemned party shall carry it out.

For the French Government, therefore, now to issue a Decree revoking the authority of the French Tribunal to review the decision of the Mixed Tribunal, and to authorize the local authorities to carry out its decisions without the sanction of the French Tribunal, or, in other words, without appeal, would, I think, be in direct violation of the engagement entered into by the Bey with this country by the Convention of the 10th October, 1863, and the validity of which has been formally recognized by the French Government.

On the 31st December, 1883, an Order in Council was passed for the exercise of British power and jurisdiction in Tunis after that date, and it provided for the cessation of British Consular jurisdiction in Tunis, but only in so far as regarded all matters and cases which came within the jurisdiction of the French Tribunal established in that Regency, and no alteration was made therein to the treatment of immovable property as provided for by the Convention of the 10th October, 1863.

Perhaps, before taking any action on this matter, it may be thought advisable to ascertain the view of the Italian Government on the last French Decree.

(Signed) E. HERTSLET.

Tunbridge Wells, August 28, 1888.

No. 4.

Count Robilant to the Marquis of Salisbury.—(Received August 30.)

(Translation.)

My Lord, 20, Grosvenor Square, August 27, 1888.
HIS Majesty's Government has been informed that the Municipalities of Tunis and Susa have sanctioned and are levying the new taxes on foreigners.

These taxes fall almost exclusively on Italians and Maltese, who form the only really important foreign colonies in Tunis, and His Majesty's Government would therefore wish to know the opinion of Her Britannic Majesty's Government on the taxes in question, in view of making some communication in common to the Bey's Government, should there be occasion for so doing.

I shall be obliged if your Excellency would give me any information on the subject, and while offering my anticipated thanks therefor, I have, &c.

(Signed) C. ROBILANT.

No. 5.

The Marquis of Salisbury to Mr. J. G. Kennedy.

(No. 105.)

Sir,

Foreign Office, September 14, 1888.

THE "Journal Officiel Tunisien" of the 26th July, 1888, contains a Decree of the President of the French Republic revoking the authority of the French Tribunals in Tunis, which have lately been substituted for the British, amongst other foreign, Consular Courts at that place, to review the decisions of the Mixed Local Tribunals in cases affecting real property. The consequence of such revocation would appear to be to submit British subjects for the future to the jurisdiction of the Bey in such matters, and the Decree would therefore seem to be at variance with the stipulations of the IVth Article of the Convention between Great Britain and Tunis of the 10th October, 1863, which was confirmed by Article XLII of the Treaty of the 19th July, 1875. By Article IV of the Treaty of the 12th May, 1881, between France and Tunis, the former country expressly guaranteed the execution of the Treaties then existing between the Government of the Regency and the different European Powers, thus binding themselves by all the Treaty obligations of the Bey. Before finally deciding what action shall be taken with regard to the above-mentioned Decree of the 17th July last, Her Majesty's Government would be glad to learn the view of the Italian Government with respect thereto, and I have therefore to request you to make the necessary communication on the subject to the Italian Minister for Foreign Affairs.

It will be seen that the practical effect of the new Decree is to deprive British subjects of the right of appeal from the decisions of the Mixed Local Tribunals provided under the Convention of 1863, the execution of which has been guaranteed

by the French Government, and the validity of which was formally recognized by Count d'Aunay's note to Lord Granville of the 30th July, 1883.

Copies of the Decree in question, and of the Treaties referred to in this despatch, are herewith inclosed, as well as copies of the correspondence containing Count d'Aunay's above-mentioned note.*

I am, &c.
(Signed) SALISBURY.

No. 6.

The Marquis of Salisbury to Count Robilant.

M. l'Ambassadeur,

Foreign Office, September 17, 1888.

IN reply to your Excellency's note of the 27th ultimo, I have the honour to inform you that Her Majesty's Government are not in possession of any recent information on the subject of the taxes levied on foreigners by the Municipalities of Tunis and Susa, but that inquiry will be made into the matter.

I have, &c.
(Signed) SALISBURY.

No. 7.

Foreign Office to Acting Consul Carbonaro.

(No. 8.)

Sir,

Foreign Office, September 17, 1888.

I AM directed by the Marquis of Salisbury to instruct you to furnish his Lordship with a Report on the nature and extent of the taxes now levied on foreigners by the Municipalities of Tunis and Susa.

I am, &c.
(Signed) P. CURRIE.

No. 8.

Consul Ricketts to the Marquis of Salisbury.—(Received September 18.)

(No. 15.)

My Lord,

Tunis, September 11, 1888.

I HAVE the honour to inform your Lordship that the canal leading from Lake Bizerta to the sea has now attained a depth of 3 to 4 metres.

The breakwater commenced some time ago is still in a bad state.

Three or four torpedo-boats are, I am told, expected on the 29th of this month to be stationed in this lake.

The number of troops there have been reduced to one company of artillery.

I have, &c.
(Signed) G. T. RICKETTS.

P.S.—This leaves by the Italian mail.

G. T. R.

No. 9.

Count Robilant to the Marquis of Salisbury.—(Received September 27.)

(Translation.)

My Lord,

20, Grosvenor Square, London, September 24, 1888.

THE King's Government have telegraphed to me that, by a Law dated the 21st September, the Bey of Tunis has placed all public and private schools in the

* Decree of the President of the French Republic of July 17, 1888; Treaties: Great Britain and Tunis, October 10, 1863 (No. 474), and July 19, 1875 (No. 586); France and Tunis, May 12, 1881 (No. 2415; in "Tunis No. 6 (1881)"; "Tunis No. 1 (1884)."

Regency under French inspectors, making the French language obligatory in the schools in question. Another Law prohibits unauthorized Associations.

His Majesty's Government holds that these Laws are not applicable to Italians residing in the Residency:

1. On account of the right they derive from the Capitulations acknowledged by Article 2 of the Protocol of the 25th January, 1884, between Italy and France.

2. On account of Article XIV of the Treaty of the 8th September, 1868, also acknowledged by France.

Italians in Tunis cannot, therefore, be governed by Laws other than their own, in virtue of the Capitulations and of the above-mentioned Treaty, which explicitly preserves to them the rights, privileges, and immunities flowing therefrom. In virtue of the same Convention, Italians in Tunis are subject to the same treatment as that granted to Tunisians in Italy. Now Article 3 of our Civil Code places foreigners on the same footing as natives, and, therefore, Tunisians also, who, had they schools in the Kingdom [of Italy], could not be obliged to use or study the Italian language; therefore, Italians in the Regency cannot be obliged to use or study a language other than their own.

With regard to Associations, they are not, in Italy, subject to any previous authorization; and, therefore, under the reciprocal right established by Article XIV of the Treaty of the 8th September, 1868, no arrangement other than this can be applied to Italians in Tunis.

For these reasons, His Majesty's Government hopes that the Laws in question will not be applied to Italians; in any case, however, that Government now declares that its views above expressed cannot be changed, and that, consequently, should the case arise, it will shape its course in accordance with the action of the Bey's Government.

In communicating the above to your Excellency, in accordance with Signor Crispi's instructions, it is to be observed that the above-mentioned Laws, which are the work of the French Government, are framed to strike at—to the injury of Italians in the Regency—privileges not greater than those enjoyed by all the other [foreign] colonies, and seem to pave the way for a disguised annexation.

I have, &c.
(Signed) C. ROBILANT.

No. 10.

Mr. Egerton to the Marquis of Salisbury.—(Received September 28.)

(No. 492.)
My Lord,

Paris, September 27, 1888.

I HAVE the honour to inclose herewith, as published in the "Journal des Débats," the text of a Law promulgated in the Tunisian Gazette on the subject of education, for it is possible that it may give umbrage to the Italians if, as I believe, the Italian schools are still under Consular supervision; and it may be held by them that, in a country where the Head of the State is Mussulman, the inspection of these schools should remain under the Capitulations. A Law on the subject of Associations in Tunis is also published in the same paper.

I have, &c.
(Signed) EDWIN H. EGERTON.

Inclosure in No. 10.

Extract from the "Journal des Débats" of September 23, 1888.

NOTRE correspondant particulier nous adresse le texte suivant des deux Lois nouvelles qui viennent d'être promulguées par "l'Officiel Tunisien":—

Loi sur l'Enseignement.

Sont promulguées, dans la Régence de Tunis, les Articles des Lois Françaises sur l'Enseignement (15 Mars, 1850, et 30 Octobre, 1856), ci-après reproduits et modifiés:—

CHAPITRE I^{er}.

Section 1.—Des Écoles.

Article 1^{er}. La Loi reconnaît deux espèces d'Écoles Primaires ou Secondaires:

(1.) Les écoles fondées ou entretenues par les communes ou l'État et qui prennent le nom d'Écoles Publiques.

(2.) Les écoles fondées ou entretenues par des particuliers ou des Associations et qui prennent le nom d'Écoles Privées.

Dans toutes les Écoles Primaires ou Secondaires le Français doit être enseigné.

Section 2.—De l'Inspection.

Art. 2. L'Inspection des établissements scolaires s'exerce par le Directeur de l'Enseignement Public de la Régence ou ses délégués.

Celle des écoles privées porte sur la moralité, l'hygiène, et la salubrité. Elle vérifie si l'enseignement n'est pas contraire à la morale et aux lois du pays et si la langue Française y est enseignée.

Art. 3. Tout chef d'établissement primaire ou secondaire qui refusera de se soumettre à la surveillance de l'État, telle qu'elle est prescrite par l'Article précédent, sera traduit devant le Tribunal Correctionnel et condamné à une amende de 100 fr. à 1,000 fr.

En cas de récidive, l'amende sera de 500 fr. à 3,000 fr.; si le refus de se soumettre à la surveillance de l'État a donné lieu à deux condamnations dans l'année, la fermeture de l'établissement pourra être ordonnée par le Jugement qui prononce la seconde condamnation.

Le procès-verbal des Inspecteurs constatant le refus du chef d'établissement fera foi jusqu'à inscription de faux.

CHAPITRE II.—DES INSTITUTEURS.

Section 1.—Des Conditions d'Exercice de la Profession d'Instituteur Primaire, Public ou Privé.

Art. 4. Toute personne âgée de 21 ans peut exercer dans la Régence la profession d'instituteur primaire, public ou privé; si elle est munie d'un brevet de capacité régulièrement délivré, soit dans la Régence soit dans une Université étrangère. Le Directeur de l'Enseignement Public est juge de la validité des brevets; il peut accorder des dispenses d'âge.

Art. 5. Sont incapables de tenir une école publique ou privée, ou d'y être employés, les individus qui ont subi une condamnation pour crime, ou pour délit contraire à la probité ou aux mœurs, les individus privés par jugement de tout ou partie des droits civiques, civils et de famille, et ceux qui auront été interdits en vertu de la présente Loi.

Art. 6. Tout instituteur qui veut ouvrir une école privée doit préalablement déclarer son intention au Contrôleur Civil et au Procureur de la République de l'arrondissement où il veut s'établir, leur désigner le local et leur donner l'indication des lieux où il a résidé et des professions qu'il a exercées pendant les dix années précédentes. Cette déclaration demeurera affichée par les soins du Contrôleur Civil à la porte du Contrôle pendant un mois.

Art. 7. Le Contrôleur Civil et le Procureur de la République peuvent former opposition à l'ouverture de l'école dans l'intérêt des mœurs publiques ou de la loi, ou par refus d'approbation du local dans le mois qui suit la déclaration.

Il est statué sur cette opposition, la partie entendue ou dûment appelée par le Conseil de l'Instruction Publique institué à l'Article 13 de la présente Loi.

A défaut d'opposition, l'école peut être ouverte à l'expiration du mois, sans autre formalité.

Si l'école doit être mixte, une autorisation spéciale du Directeur de l'Enseignement Public sera nécessaire.

Art. 8. Quiconque aura ouvert ou dirigé une école en contravention aux Articles précédents, sera poursuivi et condamné à une amende de 50 fr. à 400 fr. L'école sera fermée.

En cas de récidive, le délinquant sera condamné à un emprisonnement de six jours à un mois et à une amende de 100 fr. à 1,000 fr.

Art. 9. Tout instituteur privé, sur la plainte du Contrôleur Civil ou du Procureur

de la République, pourra être, pour cause de faute grave, dans l'exercice de ses fonctions, d'inconduite ou d'immoralité, déféré au Conseil de l'Instruction Publique, et être censuré, suspendu, ou interdit de l'exercice de sa profession.

Section 2.—Des Établissements Particuliers d'Instruction Secondaire.

Art. 10. Toute personne, âgée de 25 ans au moins, et n'ayant encouru aucune des incapacités prévues par la présente Loi, peut fonder un établissement d'enseignement secondaire, sous la condition de faire au Contrôleur Civil et au Procureur de la République de l'arrondissement où elle se propose de s'établir les déclarations prescrites par l'Article 6, et, en outre, de déposer entre les mains du Contrôleur Civil les pièces suivantes dont il lui sera donné récépissé :—

1. Un certificat de stage constatant qu'elle a rempli pendant cinq ans au moins les fonctions de professeur ou de surveillant dans un établissement secondaire, public ou privé.

2. Un diplôme de bachelier ou son équivalent : le Directeur de l'Enseignement Public sera juge de la validité des diplômes.

3. Le plan du local et l'indication de l'objet de l'enseignement.

Des dispenses d'âge peuvent être accordées par le Directeur de l'Enseignement Public.

Les Articles 5, 7, et 8 ci-dessus sont applicables aux personnes voulant ouvrir des établissements secondaires.

Art. 11. En cas de désordre grave dans le régime intérieur d'un établissement privé d'enseignement secondaire, le chef de cet établissement peut être appelé devant le Conseil de l'Instruction Publique, et soumis à la réprimande avec ou sans publicité.

Art. 12. Tout chef d'établissement privé d'enseignement secondaire, toute personne attachée à la surveillance d'une maison d'éducation peuvent, sur la plainte du Contrôleur Civil ou du Ministère Public, être traduits, pour cause d'inconduite et d'immoralité devant le Conseil de l'Instruction Publique, et être interdits de leur profession, à temps ou à toujours, sans préjudice des peines encourues pour crimes ou délits prévus par les lois.

CHAPITRE III.—CONSEIL DE L'INSTRUCTION PUBLIQUE.

Art. 13. Il est établi dans la Régence un Conseil de l'Instruction Publique, composé ainsi qu'il suit :—

Le Directeur de l'Enseignement Public, Président ;

Un Inspecteur des Écoles Primaires ;

Le Professeur à la Chaire Publique d'Arabe ;

L'Inspecteur-Général des Études Arabes ;

Le Directeur du Collège Sadiki ;

Le Directeur du Collège Alani ;

Un Professeur de la Grande Mosquée désignée par ses collègues ;

Le Directeur du Collège Saint-Charles ;

Un Professeur du dit collège désigné par ses collègues ;

Le Contrôleur Civil de Tunis ;

Le Président et le Procureur de la République du Tribunal de Tunis ;

Trois Directeurs d'Écoles Privées désignés par le Directeur de l'Enseignement Public.

Art. 14. Les membres du Conseil de l'Instruction Publique sont nommés pour trois ans.

Art. 15. Le Conseil de l'Instruction Publique donne son avis :

Sur les réformes à introduire dans l'enseignement, la discipline, et l'administration des Écoles Publiques ;

Sur les budgets de ces écoles.

Il instruit les affaires disciplinaires relatives aux membres de l'enseignement.

Il prononce sur les affaires contentieuses relatives à l'ouverture des écoles privées, aux droits des maîtres particuliers, et à l'exercice du droit d'enseigner ; sur les poursuites dirigées contre les membres de l'enseignement primaire ou secondaire, dans les cas déterminés par la présente Loi.

CHAPITRE IV.—DISPOSITIONS DIVERSES.

Art. 16. Les Directeurs de chaque école devront tenir un registre sur lequel seront inscrits les noms des élèves, la date de leur naissance, l'époque de leur entrée à l'école, le nom et le domicile de leurs parents.

Art. 17. Les châtiments corporels sont interdits.

Loi sur les Associations.

Article 1^{er}. Toutes personnes voulant former une Association devront faire au Contrôleur Civil et au Procureur de la République de l'Arrondissement une déclaration énonçant :—

1. L'objet et le nom de l'Association.

2. Les nom, âge, profession, et domicile des fondateurs, et spécialement de ceux qui doivent représenter l'Association, comme Présidents, Directeurs, Administrateurs, ou sous toute autre dénomination.

3. Le siège de l'Association.

Les Statuts de l'Association devront être, en outre, déposés.

Art. 2. Nulle Association ne peut se constituer qu'avec l'autorisation du Gouvernement, qui fera connaître sa décision dans le délai d'un mois. Cette autorisation est toujours révocable.

Art. 3. Toute modification aux Statuts d'une Association, tout changement dans le personnel des Administrateurs doivent être déclarés et autorisés dans les mêmes formes que ci-dessus.

Art. 4. Toute Association qui se sera formée sans autorisation sera dissoute.

Les Chefs, Directeurs, ou Administrateurs de l'Association seront, en outre, punis d'une amende de 16 fr. à 200 fr.

Les mêmes dispositions pourront être appliquées en cas d'infraction aux Statuts d'une Association dûment autorisée.

Art. 5. Si, par discours, exhortations, invocations, ou prières, en quelque langue que ce soit, ou par lecture, affiche, publication ou distribution d'écrits quelconques, il a été fait, dans les réunions tenues par l'Association, quelque provocation à des crimes ou à des délits, la peine sera de 100 fr. à 300 fr. d'amende, et de trois mois à deux ans d'emprisonnement contre les Chefs, Directeurs, et Administrateurs de ces Associations, sans préjudice des peines plus fortes qui seraient portées par la loi contre les individus personnellement coupables de la provocation, lesquels, en aucun cas, ne pourront être punis d'une peine moindre que celle infligée aux Chefs, Directeurs, et Administrateurs de l'Association.

Art. 6. Tout individu qui, sans la permission du Contrôleur Civil, aura accordé ou consenti l'usage de sa maison ou de son appartement, en tout ou en partie, pour la réunion des membres d'une Association non autorisée, sera puni d'une amende de 16 fr. à 200 fr.

Art. 7. Aucun établissement d'enseignement privé, aucune Association quelconque ne peuvent être reconnus d'utilité publique que par un Décret qui déterminera la quotité des biens meubles ou immeubles que l'établissement ou l'Association pourrait posséder. Toute acquisition dépassant cette quotité sera nulle de plein droit.

Le bénéfice de la reconnaissance d'utilité publique peut toujours être retiré par Décret. Les dispositions à titre gratuit faites en faveur d'un établissement ou d'une Association reconnue d'utilité publique ne pourront avoir leur effet qu'après avoir été autorisées par un Décret spécial.

Art. 8. Toute acquisition à titre gratuit ou onéreux faite par une Association simplement autorisée, soit directement, soit au moyen de personnes interposées, soit au moyen de l'adjonction d'une Convention de Société ou par toute autre voie indirecte, est nulle de plein droit.

Toutefois les acquisitions d'immeubles nécessaires aux réunions ou au fonctionnement de l'Association peuvent être autorisées par Décret.

Art. 9. La nullité des dispositions ou acquisitions faites contrairement à la présente Loi et postérieurement à sa promulgation peut être poursuivie devant les Tribunaux Civils par toute personne intéressée, même par les donateurs ou les vendeurs, et par le Ministère Public. Les biens faisant l'objet des actes annulés font retour aux ayants droit. S'il s'agit de biens acquis à titre onéreux, ces biens ou leur valeur, si le vendeur en offre le remboursement, sont attribués à l'État, qui les consacrera à des œuvres d'assistance ou de prévoyance.

The Marquis of Salisbury to Count Robilant.

M. l'Ambassadeur,

Foreign Office, September 28, 1888.

I HAVE the honour to acknowledge the receipt of your Excellency's note of the 24th instant on the subject of the new Laws in Tunis relative to public and private schools and the formation of Associations.

I have, &c.
(Signed) SALISBURY.

Mr. J. G. Kennedy to the Marquis of Salisbury.—(Received September 29.)

(No. 248.)

My Lord,

Camaldoli, September 25, 1888.

I HAVE the honour to inclose, in translation by Mr. Adam, Second Secretary at this Embassy, an interesting article from Signor Crispi's organ, the "*Riforma*," commenting upon recent French action in Tunis.

The article reviews and criticises the Decrees subjecting all schools, whether public or private, to the inspection of the Director of Public Instruction in the Regency, and regulating Associations, and also the Bill announced by M. Goblet for facilitating the importation into France of Tunisian agricultural products.

These measures are accepted by the "*Riforma*," and generally by the Italian press, as directed against Italy in retaliation for the recent Massowah incident.

The above measures, according to the inclosed article, would seem to prove that the Massowah incident was not raised out of regard for the observance of international law, but solely as a means of obtaining concessions elsewhere. "But," continues the "*Riforma*," "we must not allow ourselves to be disquieted by the above French measures, because Tunis is not yet annexed to France, the Treaties voluntarily contracted with foreign Powers by the Bey are still valid, and these Treaties have been guaranteed and confirmed by the imposed Treaty of Kassar-Saïd."

The "*Tribuna*" observes that these new bonds drawn round Tunis point to the eventual annexation of that country by France: "Under such circumstances, Italy should ask herself the simple question: 'Ought we, can we, go to war for Tunis?' In 1881, the answer was a decided negative. Now, owing to old and new alliances, the question might be otherwise decided."

I have, &c.
(Signed) J. G. KENNEDY.

Inclosure in No. 12.

Extract from "La Riforma" of September 23, 1888.

(Translation.)

"FRANCE IN TUNIS.

"Tunis, September 21, 1888.

"A DECREE subjects all schools, whether public or private, to the inspection of the Director of Public Instruction in the Regency. Its wording is in conformity with the French Educational Laws.

"Another Decree regulates Associations."

"Paris, September 21, 1888.

"The Bill respecting customs duties between Tunisia and France which M. Goblet, Minister for Foreign Affairs, has been authorised by the Cabinet to bring forward at the next meeting of the Chamber, deals with wines, cereals, cattle, and oils, and is calculated to facilitate their importation into France, subjecting them merely to an *ad valorem* duty of 3 per cent."

The above telegrams will certainly not pass unobserved in Italy, yet we do not think that the impression caused by them will be greater than it should be.

They will not pass without remark, both on account of the measures which they

describe, and because of the moment selected by the French Government for putting them into force.

When the Massowah incident failed to take the course which it hoped for, the officious French press declared that it could not understand how the Italian Foreign Minister had ever brought to the notice of Europe that incident, which, in the opinion of the Paris Cabinet, should merely have been the object of a friendly discussion.

The present measures prove most clearly what every one in Italy had from the first perceived, namely, that the incident in question was not raised from any love for international law, as was pretended in Paris, but merely as a means for obtaining concessions elsewhere, if, indeed, it was not possible to create embarrassments for us at Massowah itself. Thus, two questions which ought to remain in fact, as they are by nature, absolutely separate and distinct, would have been successfully mixed up. Now, on the contrary, when the Massowah incident has been brought before the Tribunal of Europe, and settled in accordance with our lawful rights, with the unanimous consent of the Great Powers and of Spain (whatever the Parisian press may still pretend) by the rejection of the French assumptions respecting the Capitulations, the measures which France may be planning with regard to Tunisia might be considered in themselves and upon their own merits.

These would appear to be of two kinds, and to deal with moral interests as well as with material interests, but there is no need for excessive anxiety either on account of the one or the other, since as yet, so far as we are aware, Tunisia has not been annexed to France, and the Treaties concluded by the Bey with other European Powers are still in force, those voluntary Treaties, of which the compulsory Treaty of Kassar-Saïd confirmed the validity and guaranteed the observance.

Now, the provisions of that Treaty, whether regarding produce or relating to schools and to Associations, cannot be violated, nor can it enter into the mind of France to violate them.

We shall probably have to wait until the opening of the French Chamber to know the text of the Bill which the Minister for Foreign Affairs is alleged to have been authorized by the Cabinet to bring forward with regard to customs duties between Tunisia and France; we shall not have to wait so long, a few days at most, before knowing the terms of the Decree respecting the schools, if so be that it has really been issued. With the text before our eyes, we can see what is really the question.

For the present, and while reserving any comments, it will not be without profit to call to mind what occurred with regard to Italian schools in the Argentine Republic.

"Chauvinisme" is not an exclusively French ailment, and the marvellous progress of the Italian colony in the Argentine Republic, too, aroused in some misguided persons distrust and suspicions. The local press took up the matter, and, like more than one French newspaper in the case of our schools at Tunis, demanded the suppression of the Italian schools, as being contrary to the law of the land.

The Government was obliged to take the matter up, and we know what was the result of the investigation which it undertook.

That result was, that the President of the Republic, in his message at the opening of the National Congress, recognized the right of foreigners to freedom of teaching provided they conform to the local school Regulations, and declared that the schools maintained by foreign communities were not a menace against the safety of the State.

And thus the campaign against our schools was forced to come to an end.

Now, our schools in Tunisia certainly violate no logical regulations any more than the Italian schools in France do.

Hence, if the existence of the latter is admitted, as indeed it ought, it must be so all the more in Tunisia, which is only a protected country, and the relations of which with European Powers are regulated by the Treaties in force.

Certainly, we must not delude ourselves into believing that no difficulties can be created for our schools. There will be both the will and the power to create them; but whilst, on the part of Italy, everything which might afford a pretext for them will be avoided, we must also believe that, at least for the present, the Paris Cabinet will realize the expediency for France not to drive to extremities a colony which is at once the oldest, the most numerous, the most active, the wealthiest, the most important one in the Regency, that colony which holds in its hands so large a part of the prosperity of a country which must also be of some interest to the French, since they have insisted on protecting it at any cost; that the Paris Cabinet will realize the expediency

of not rendering the relations between Italy and France less friendly by an unjust policy towards our colony at Tunis.

Rightly or wrongly—and in our opinion rightly—in the popular even more than in the official classes, the Italian nation has felt the Tunis blow; and in France itself there are many who deplore its effects. We do not believe that the French Government has any interest in aggravating those effects; and, therefore, we receive the above news of the day with great calmness, although we are quite aware of the origin and purpose of the measures announced therein.

No. 13.

Mr. Egerton to the Marquis of Salisbury.—(Received October 1.)

(No. 499.)

My Lord,

Paris, September 30, 1888.

WITH reference to my despatch No. 492 of the 27th instant, in which I inclosed the text of the new Law respecting education in Tunis, I have the honour to inclose an official communication to the "Agence Havas," in which it is stated that the Minister for Foreign Affairs, in answer to the inquiries of the Italian Minister on this subject, has declared that none of the rights reposing on previous engagements would be affected by the measure in question, and that he had no doubt that the instructions which he had sent to the French Representative in Tunis would allow of a satisfactory arrangement being come to.

I have, &c.

(Signed) EDWIN H. EGERTON.

Inclosure in No. 13.

Extract from the "Débats" of September 30, 1888.

"L'AGENCE HAVAS" communique aux journaux la note suivante:—

"M. Ressmann, Chargé d'Affaires du Gouvernement Italien à Paris, a eu Vendredi un entretien avec M. Goblet et, dans un sentiment amical, il lui a demandé des explications sur la portée des Décrets relatifs aux écoles de Tunisie.

"M. Goblet a répondu que le Cabinet Français, tout en désirant agir dans les limites des droits appartenant au Bey et au Protectorat, n'entendait méconnaître aucune des obligations qui résultent des engagements antérieurs.

"Il a ajouté qu'il avait la conviction que les instructions données à notre Représentant, M. Massicault, permettraient vraisemblablement d'arriver à Tunis à un accord satisfaisant."

No. 14.

Consul Ricketts to the Marquis of Salisbury.—(Received October 2.)

(No. 16.)

My Lord,

Tunis, September 25, 1888.

I HAVE the honour to transmit herewith inclosed to your Lordship a Decree signed by the Bey of the Regency, and countersigned by the Resident, laying down certain Rules for the guidance of persons in charge of the public and private schools of this country.

There are in Tunis five Italian schools, some of which are supported by the Italian Government; six French schools; numerous Arab schools and colleges; and two schools belonging to a British Missionary Society established for the purpose of instructing and converting the poor Jews of this place.

The population of this country is said to be composed of; French, 4,000; of foreigners, 45,000, chiefly Italians and Maltese; and Arabs, 1,300,000; so the effect of this Decree will be to force the language of a very insignificant minority on the masses, giving the French authorities at the same time a right to interfere in these establishments, and depriving the Italians and others of that freedom of action which has long been enjoyed by them in the management of their own schools, for up to the present moment they have never been molested or interfered with in this respect by

the authorities of the Bey's Government, a mark of the tolerant spirit exercised by the Moslems towards all foreigners residing among them.

I have at the same time also the honour to forward herewith inclosed to your Lordship a Decree of the 15th September, 1888, establishing certain rules for the regulation of Associations in Tunis, and compelling all persons forming an Association to make this fact known to the Contrôleur Civil, allowing no Society to be formed without the permission of the authorities, and inflicting fines for the slightest breach of the Rules promulgated.

It follows from this that no Masonic lodge or club can be established without the permission of the authorities, nor can the Società Patriottica Italiana and Società Patriottica Maltese continue their functions should they not conform to the terms of this Decree.

The Società Patriottica Maltese has been established here for many years past, its principal object being to assist any of its members who may be found in distress. It is, in short, a Benevolent Society similar to those we find in many other countries, and which for the most part are exempt from any such interference as is mentioned in the Regulations above cited.

The Treaty of 1875 appears to be silent as regards the existence and organization of schools and Societies, but in Article V it states, "that our subjects shall be free to reside in any part of the Regency without hindrance or molestation, that they shall be treated with honour, and their dwellings respected." The question then arises for the consideration of your Lordship as to whether or not the French authorities have the right of entering the dwellings of British subjects and others for the purpose of carrying into execution the Decrees above mentioned.

Awaiting your Lordship's reply on this matter, I have, &c.

(Signed) G. T. RICKETTS.

Inclosure in No. 14.

Extract from the "Journal Officiel Tunisien" of September 20, 1888.

Loi du 9 Moharrem, 1306 (15 Septembre, 1888), sur l'Enseignement en Tunisie.

(Louanges à Dieu.)

NOUS, Ali Bey, possesseur du Royaume de Tunis.

Après un examen approfondi des Lois qui régissent dans la République Française les matières si importantes de l'enseignement;

Considérant que, dans un intérêt d'ordre public, de moralité, et de civilisation, il ne peut y avoir que les plus grands avantages à appliquer leurs principales dispositions dans notre pays, pour y développer l'instruction et l'entourer des garanties nécessaires;

En conformité de l'Article 1^{er} de la Convention du 8 Juin, 1883, passée par nous avec le Gouvernement de la République Française;

Avons promulgué et promulguons dans la Régence les Articles ci-après, dont la teneur est empruntée aux Lois Françaises sur l'enseignement des 15 Mars, 1850 30 Octobre, 1886:—

CHAPITRE I^{er}.—Des Écoles et de l'Inspection.Section 1^{re}.—Des Écoles.

Article 1^{er}. La Loi reconnaît deux espèces d'écoles primaires ou secondaires:—

1. Les écoles fondées ou entretenues par les communes ou l'État et qui prennent le nom d'écoles publiques;

2. Les écoles fondées ou entretenues par des particuliers ou des Associations et qui prennent le nom d'écoles privées.

Dans toutes les écoles primaires ou secondaires, le Français doit être enseigné.

Section 2.—De l'Inspection.

Art. 2. L'inspection des établissements scolaires s'exerce par le Directeur de l'Enseignement Public de la Régence ou ses délégués. Celle des écoles privées porte sur la moralité, l'hygiène, et la salubrité.

Elle vérifie si l'enseignement n'y est pas contraire à la morale et aux lois du pays, et si la langue Française y est enseignée.

Art. 3. Tout chef d'établissement primaire ou secondaire qui refusera de se soumettre à la surveillance de l'État, telle qu'elle est prescrite par l'Article précédent, sera traduit devant le Tribunal Correctionnel et condamné à une amende de 100 fr. à 1,000 fr.

En cas de récidive, l'amende sera de 500 fr. à 3,000 fr. Si le refus de se soumettre à la surveillance de l'État a donné lieu à deux condamnations dans l'année, la fermeture de l'établissement pourra être ordonnée par le Jugement qui prononce la seconde condamnation.

Le procès-verbal des Inspecteurs constatant le refus du chef d'établissement fera foi jusqu'à inscription de faux.

CHAPITRE II.—Des Instituteurs.

Section 1^{re}.—Des Conditions d'Exercice de la Profession d'Instituteur Primaire, public ou privé.

Art. 4. Toute personne âgée de 21 ans peut exercer dans la Régence la profession d'instituteur primaire, public ou privé, si elle est munie d'un brevet de capacité régulièrement délivré, soit dans la Régence, soit dans une Université étrangère. Le Directeur de l'Enseignement Public est juge de la validité des brevets; il peut accorder des dispenses d'âge.

Art. 5. Sont incapables de tenir une école publique ou privée, ou d'y être employés, les individus qui ont subi une condamnation pour crime, ou pour délit contraire à la probité ou aux mœurs, les individus privés par Jugement de tout ou partie des droits civiques, civils, et de famille, et ceux qui auront été interdits en vertu de la présente Loi.

Art. 6. Tout instituteur qui veut ouvrir une école privée doit préalablement déclarer son intention au Contrôleur Civil et au Procureur de la République de l'arrondissement où il veut s'établir, leur désigner le local, et leur donner l'indication des lieux où il a résidé et des professions qu'il a exercées pendant les dix années précédentes.

Cette déclaration demeurera affichée par les soins du Contrôleur Civil à la porte du Contrôle pendant un mois.

Art. 7. Le Contrôleur Civil et le Procureur de la République peuvent former opposition à l'ouverture de l'école, dans l'intérêt des mœurs publiques ou de la loi, ou par refus d'approbation du local, dans le mois qui suit la déclaration.

Il est statué sur cette opposition, la partie entendue ou dûment appelée, par le Conseil de l'Instruction Publique institué à l'Article 13 de la présente Loi.

A défaut d'opposition, l'école peut être ouverte à l'expiration du mois, sans autre formalité.

Si l'école doit être mixte, une autorisation spéciale du Directeur de l'Enseignement Public sera nécessaire.

Art. 8. Quiconque aura ouvert ou dirigé une école, en contravention aux Articles précédents, sera poursuivi et condamné à une amende de 50 fr. à 400 fr. L'école sera fermée.

En cas de récidive, le délinquant sera condamné à un emprisonnement de six jours à un mois, et à une amende de 100 fr. à 1,000 fr.

Art. 9. Tout instituteur privé, sur la plainte du Contrôleur Civil ou du Procureur de la République, pourra être, pour cause de faute grave dans l'exercice de ses fonctions, d'inconduite, ou d'immoralité, déféré au Conseil de l'Instruction Publique et être censuré, suspendu, ou interdit de l'exercice de sa profession.

Section 2.—Des Établissements particuliers d'Instruction Secondaire.

Art. 10. Toute personne, âgée de 25 ans au moins et n'ayant encouru aucune des incapacités prévues par la présente Loi, peut fonder un établissement d'enseignement secondaire, sous la condition de faire au Contrôleur Civil et au Procureur de la République de l'arrondissement où elle se propose de s'établir, les déclarations prescrites par l'Article 6, et en outre, de déposer entre les mains du Contrôleur Civil les pièces suivantes, dont il lui sera donné récépissé:—

1. Un certificat de stage constatant qu'elle a rempli, pendant cinq ans au moins,

les fonctions de professeur ou de surveillant dans un établissement secondaire, public ou privé;

2. Un diplôme de bachelier, ou un équivalent; le Directeur de l'Enseignement Public sera juge de la validité des diplômes;

3. Le plan du local et l'indication de l'objet de l'enseignement.

Des dispenses d'âge peuvent être accordées par le Directeur de l'Enseignement Public.

Les Articles 5, 7, et 8 ci-dessus sont applicables aux personnes voulant ouvrir des établissements secondaires.

Art. 11. En cas de désordre grave dans le régime intérieur d'un établissement privé d'enseignement secondaire, le chef de cet établissement peut être appelé devant le Conseil de l'Instruction Publique et soumis à la réprimande, avec ou sans publicité.

Art. 12. Tout chef d'établissement privé d'enseignement secondaire, toute personne attachée à la surveillance d'une maison d'éducation peuvent, sur la plainte du Contrôleur Civil ou du Ministère Public, être traduits, pour cause d'inconduite et d'immoralité, devant le Conseil d'Instruction Publique et être interdits de leur profession, à temps ou à toujours, sans préjudice des peines encourues pour crimes ou délits prévus par les lois.

CHAPITRE III.—Conseil de l'Instruction Publique.

Art. 13. Il est établi dans la Régence un Conseil de l'Instruction Publique, composé ainsi qu'il suit:—

Le Directeur de l'Enseignement Public, Président;

Un Inspecteur des Écoles Primaires;

Le Professeur à la Chaire Publique d'Arabe;

L'Inspecteur-Général des Études Arabes.

Le Directeur du Collège Sadiki;

Le Directeur du Collège Alaoui;

Un Professeur de la Grande Mosquée, désigné par ses collègues;

Le Directeur du Collège Saint-Charles;

Un Professeur du dit collège nommé par ses collègues;

Le Contrôleur Civil de Tunis;

Le Président et le Procureur de la République du Tribunal de Tunis;

Trois Directeurs d'écoles privées désignées par le Directeur de l'Enseignement Public.

Art. 14. Les membres du Conseil de l'Instruction Publique sont nommés pour trois ans.

Art. 15. Le Conseil de l'Instruction Publique donne son avis:—

Sur les réformes à introduire dans l'enseignement, la discipline, et l'administration des écoles publiques;

Sur les budgets de ces écoles.

Il instruit les affaires disciplinaires relatives aux membres de l'enseignement.

Il prononce sur les affaires contentieuses relatives à l'ouverture des écoles privées, aux droits des maîtres particuliers, et à l'exercice du droit d'enseigner, sur les poursuites dirigées contre les membres de l'enseignement primaire ou secondaire, dans les cas déterminés par la présente Loi.

CHAPITRE IV.—Dispositions Diverses.

Art. 16. Les Directeurs de chaque école devront tenir un registre, sur lequel seront inscrits les noms des élèves, la date de leur naissance, l'époque de leur entrée à l'école, le nom et le domicile de leurs parents.

Art. 17. Les châtimens corporels sont interdits.

Vu pour promulgation et mise à exécution:

Le Chargé d'Affaires de France,
délégué à la Résidence Générale de la République Française,
(Signé) G. BENOIT.

Tunis, le 16 Septembre, 1888.

Loi du 9 Moharrem, 1306 (15 Septembre, 1888), sur les Associations.

(Louanges à Dieu.)

Nous, Ali Bey, possesseur du Royaume de Tunis.

Considérant que, dans un intérêt d'ordre public, il y a lieu de réglementer en Tunisie les Associations ;

Et en conformité de l'Article I^{er} de la Convention passée par nous le 8 Juin, 1883, avec le Gouvernement de la République Française ;

Avons promulgué et promulguons dans la Régence de Tunis la Loi ci-après :

Article I^{er}. Toutes personnes voulant former une Association devront faire au Contrôleur Civil et au Procureur de la République de l'Arrondissement une déclaration énonçant :—

1. L'objet et le nom de l'Association.
2. Les noms, âge, profession, et domicile des fondateurs, et spécialement de ceux qui doivent représenter l'Association, comme Présidents, Directeurs, Administrateurs ou sous toute autre dénomination.

3. Le siège de l'Association,

Les Statuts de l'Association devront être en outre déposés.

Art. 2. Nulle Association ne peut se constituer qu'avec l'autorisation du Gouvernement, qui fera connaître sa décision dans le délai d'un mois. Cette autorisation est toujours révocable.

Art. 3. Toute modification aux statuts d'une Association, tout changement dans le personnel des Administrateurs, doivent être déclarés et autorisés dans les mêmes formes que ci-dessus.

Art. 4. Toute Association qui se sera formée sans autorisation sera dissoute.

Les Chefs, Directeurs, ou Administrateurs de l'Association seront, en outre, punis d'une amende de 16 fr. à 200 fr.

Les mêmes dispositions pourront être appliquées, en cas d'infraction aux Statuts d'une Association dûment autorisée.

Art. 5. Si, par discours, exhortations, invocations, ou prières, en quelque langue que ce soit, ou par lecture, affiche, publication, ou distribution d'écrits quelconques, il a été fait, dans les réunions tenues par l'Association, quelque provocation à des crimes ou à des délits, la peine sera de 100 fr. à 300 fr. d'amende, et de trois mois à deux ans d'emprisonnement contre les Chefs, Directeurs, et Administrateurs de ces Associations, sans préjudice des peines plus fortes qui seraient portées par la loi contre les individus personnellement coupables de la provocation, lesquels, en aucun cas, ne pourront être punis d'une peine moindre que celle infligée aux Chefs, Directeurs, et Administrateurs de l'Association.

Art. 6. Tout individu qui, sans la permission du Contrôleur Civil, aura accordé et consenti l'usage de sa maison ou de son appartement, en tout ou en partie, pour la réunion des membres d'une Association non autorisée, sera puni d'une amende de 16 fr. à 200 fr.

Art. 7. Aucun établissement d'enseignement privé, aucune Association quelconque ne peut être reconnu d'utilité publique autrement que par un Décret qui déterminera la quotité des biens, meubles ou immeubles, que l'Association ou l'établissement pourra posséder.

Toute acquisition dépassant cette quotité sera nulle de plein droit.

Le bénéfice de la reconnaissance d'utilité publique peut toujours être retiré par Décret.

Les dispositions à titre gratuit faites en faveur d'un établissement ou d'une Association reconnu d'utilité publique, ne pourront avoir leur effet qu'après avoir été autorisées par un Décret spécial.

Art. 8. Toute acquisition à titre gratuit ou onéreux faite par une Association simplement autorisée, soit directement, soit au moyen de personnes interposées, soit au moyen de l'adjonction d'une convention de société, soit par toute autre voie indirecte, est nulle de plein droit.

Toutefois les acquisitions d'immeubles nécessaires aux réunions ou au fonctionnement de l'Association peuvent être autorisées par Décret.

Art. 9. La nullité des dispositions ou acquisitions faites contrairement à la présente Loi et postérieurement à sa promulgation peut être poursuivie devant les Tribunaux Civils par toute personne intéressée, même par les donateurs ou les vendeurs et par le Ministère Public. Les biens faisant l'objet des actes annulés font retour aux

ayants droit. S'il s'agit de biens acquis à titre onéreux, ces biens ou leur valeur, si le vendeur en offre le remboursement, sont attribués à l'État, qui les consacrera à des œuvres d'assistance ou de prévoyance.

Vu pour promulgation et mise à exécution :

Le Chargé d'Affaires de France,
délégué à la Résidence Générale de la République Française,
(Signé) G. BENOIT.

Tunis, le 16 Septembre, 1888.

No. 15.

Consul Ricketts to the Marquis of Salisbury.—(Received October 5.)

(No. 17.)

My Lord,

Tunis, September 29, 1888.

I HAVE the honour to transmit herewith inclosed to your Lordship an amendment to the Decree of the 15th September, 1888, forwarded in my despatch No. 16 of the 25th of this month, in reference to the administration of schools in this country, to the effect that the person in fault will not be brought before the Tribunals, but will be condemned to the payment of a fine.

The ostensible object of the publication of this Decree is the necessity of promoting the language of the French among all classes, but the real aim would seem to be the destruction of the influence established here by Italy.

The Italians will not, however, from what I hear, be found to submit to this infringement of their privileges.

They state their schools are not private schools, but public places of instruction, established and supported for a long time past at the expense of the Italian Government. Their professors being appointed by the Italian Government, and receiving their instructions from the Italian Consul, are, they assert, not amenable to the French Regulations embodied in the Decree of the 15th instant. Any attempt, therefore, to interfere in the administration of this Department, which has for so long been confided to the care of the Consular authority, can only be viewed in the light of a desire to change the status of that functionary, and to curtail the privileges and immunities hitherto enjoyed by him, the maintenance of which, though the Consular jurisdiction was suspended, was guaranteed by the arrangement entered into in 1883 (as mentioned in the reply made by Count d'Aunay of the 20th July, 1883, to a Memorandum from Earl Granville), and also by the terms of Article 2 of the Protocol signed at Rome by MM. Mancini and Decrais on the 25th January, 1884.

Such being the opinion of the Italians as regards this matter, it remains to be seen what course will be adopted by the French authorities in endeavouring to put into execution the various Regulations set forth in the document herein spoken of.

I have, &c.

(Signed) G. T. RICKETTS.

Inclosure in No. 15.

Erratum à la Loi du 9 Moharrem, 1306 (15 Septembre, 1888), sur l'Enseignement en Tunisie. ("Journal Officiel Tunisien" No. 38 du 20 Septembre, 1888.)

L'ARTICLE 3 de la Loi sur l'Enseignement en Tunisie doit être rectifiée ainsi qu'il suit :—

Au lieu de—

"Tout chef d'établissement primaire ou secondaire qui refusera de se soumettre à la surveillance de l'État, telle qu'elle est prescrite par l'Article précédent, sera traduit devant le Tribunal Correctionnel et condamné à une amende de 100 fr. 1,000 fr. . . ."

Lire—

"Tout chef d'établissement primaire ou secondaire qui refusera de se soumettre à la surveillance de l'État, telle qu'elle est prescrite par l'Article précédent, sera poursuivi et condamné à une amende de 100 fr. à 1,000 fr. . . ."

Memorandum by Sir J. Pauncefoot on the Decree of the Bey respecting Schools, &c., in the Regency.

THIS measure is most probably one of retaliation against Italy in consequence of the recent Massowah incident.

There is a marked difference, however, between the position of the Italians at Massowah and that of the French in Tunis.

At Massowah the Italians have assumed the entire and absolute government and administration of the place, and have *de facto* superseded all former and other sovereign rights. But in Tunis the Government of the Bey still exists, and, whatever may be the influence and control of the French Government over that Ruler, the international position is different from that of Massowah. Moreover, the limits of the right of France to make any change (as against foreign Powers) in the order of things existing at the date of the establishment of the French Protectorate were carefully defined in the diplomatic correspondence of the time, and, in the case of Italy, by a formal Protocol, dated the 25th January, 1884.

The French, by their Treaty with the Bey of the 12th May, 1881 (Parliamentary Paper, "Tunis No. 6, 1881," p. 52), acquired no right to legislate for the Regency.

Legislation in Tunis is still the legislation of the Bey, though inspired by the French Government. Thus, when the other Powers agreed to abolish their Consular Courts, and to place their subjects, as regards the administration of civil and criminal justice, under the jurisdiction of the new French Tribunals, this arrangement was carried out, not by a French Law, but by a *Decree of the Bey* adopting and promulgating the French "Loi portant sur l'organisation de la Juridiction Française en Tunisie," and subjecting all foreigners, with the consent of their respective Governments, to the jurisdiction of those Tribunals (Confidential Print, No. 48, p. 35, and No. 52, Inclosure 2, p. 41).

The Powers certainly agreed to the application of French civil and criminal law to their subjects by the French Tribunals; but they did not agree to submit them to any new legislation which the Bey, with the advice of the French Government, might attempt to promulgate in defiance of the Capitulations and usages. If France had assumed the government and administration *de facto*, to the exclusion of the native Government (as the Austrians did in Bosnia and Herzegovina, as we did in Cyprus, and as the Italians have done at Massowah), there would have been an end of the Capitulations. But in Tunis the French have maintained the Government of the Bey, and (although they affect the contrary) we took great care to record that we only consented to waive the Capitulations "to the extent which might be required to give full scope to the exercise of civil and criminal jurisdiction over British subjects by the new French Tribunals." (Lord Granville to M. Tissot, 20th June, 1883, Confidential Print, p. 51: see also Lord Granville's reply to Lord De La Warr in the House of Lords, *ibid.*, p. 61.)

Turning now to the express engagements of France with the other Powers, and firstly with England, it is important to examine the correspondence between Lord Lyons and M. Barthélemy de St. Hilaire in 1881 (Parliamentary Paper, "Tunis No. 6, 1881," No. 45, pp. 42-46), and Lord Granville's note to M. Challemlacour of the 20th May of that year (*ibid.*, p. 55), as defining the precise scope of the French Protectorate.

M. Barthélemy St. Hilaire, in his note to Lord Lyons of the 16th May, 1881, gave the assurance, among others ("Tunis No. 6, 1881," p. 45), that no changes in the state of things assured by existing Conventions with foreign Powers would be proceeded with, except in agreement with those Powers; and Mr. Plunkett stated to M. Duclerc, under instructions from Lord Granville, that in agreeing to waive the British Consular jurisdiction in Tunis, Her Majesty's Government reserved all the other rights and privileges, commercial and otherwise, guaranteed to them by Treaties, and continued to rely on the assurances given by M. Barthélemy St. Hilaire (Correspondence, p. 7). Lord Granville also, in his note to M. Challemlacour of the 20th May, 1881 ("Tunis No. 6, 1881," p. 55), stated that Her Majesty's Government regarded those assurances as an international engagement.

I would next refer to Count d'Aunay's note of the 10th May, 1883 (Confidential Print, No. 52, p. 38), in which he explains that British subjects will be in no wise prejudiced by submitting to the jurisdiction of the new French Tribunals, which, he declared, would apply French Law as in France in the exercise of their civil and criminal jurisdiction.

The next document of importance is Lord Granville's note to M. Tissot of the 20th June, 1883 (Confidential Print, No. 72, p. 51), making the distinct reservation above mentioned as to the Capitulations, and submitting various questions in relation to the new Tribunals; finally, Count d'Aunay's note of the 20th July, in reply to those inquiries (*ibid.*, No. 86, p. 60), as to which I would draw attention to the last paragraph under the heading of "Observations Générales."

As regards Italy, I would refer, in the first place, to the *aide-mémoire* given to the French Ambassador at Rome (*ibid.*, p. 64) in July 1883, and to the Franco-Italian Protocol of the 25th January, 1884 (see separate printed copy), which, by paragraph 2, expressly reserves all rights, usages, and immunities assured by the Capitulations, subject only to the transfer of the Italian Consular jurisdiction to the new French Tribunals.

Count Robilant, in his note of the 24th September, 1888, appeals to that Protocol, and also to the Italian Treaty of the 8th September, 1868, in support of the contention of his Government that the new Law in question cannot be applied to Italians. (Great Britain is entitled to benefit by any provision of that Treaty by virtue of the most-favoured-nation clause of the Anglo-Tunisian Treaty.)

I venture to think that the Italian contention is right, and that we are entitled to claim the same immunity for British subjects.

The real question appears to me to be whether before the date of the French Protectorate the Bey could have subjected foreigners to the provisions of such a Decree consistently with the Capitulations and usages. If not, he has no power to do so now. Foreign Governments only waived the Capitulations to the extent of rendering their subjects amenable to the jurisdiction of the new French Tribunals. The British Order in Council abolishing our Consular jurisdiction in the Regency (31st December, 1883) was framed on the Order in Council of the 5th February, 1876, suspending our Consular jurisdiction in Egypt as regards mixed cases which came within the jurisdiction of the new Mixed Tribunals. I conceive that, in Tunis, the new French Tribunals can only enforce Decrees of the Bey which have been assented to by the Powers, precisely as, in Egypt, the Mixed Courts can only administer Laws to which the Powers have given their adhesion.

J. P.

Foreign Office, October 6, 1888.

No. 17.

Mr. J. G. Kennedy to the Marquis of Salisbury.—(Received October 7, 5 P.M.)

(No. 38.)

(Telegraphic.)

Rome, October 7, 1888, 3-20 P.M.

SIGNOR CRISPI told me yesterday that he had protested at Paris against, and that he intended to resist, Decree imposing inspection on all schools in Tunis.

No. 18.

Mr. Egerton to the Marquis of Salisbury.—(Received October 8.)

(No. 506.)

My Lord,

Paris, October 4, 1888.

I HAVE the honour to report, with reference to my Nos. 492 and 499 of the 27th and 30th ultimo, that the Italian Minister signified yesterday to the French Minister for Foreign Affairs that his Government could not recognize, as regards the Italian schools in Tunis, the recent legislation of the Bey.

I have, &c.

(Signed)

EDWIN H. EGERTON.

Sir E. Malet to the Marquis of Salisbury.—(Received October 10.)

(No. 302. Confidential.)

Berlin, October 6, 1888.

My Lord,

WITH reference to Mr. Egerton's despatch No. 492 of the 27th ultimo, which appears in the Confidential print sent to me by the last messenger, which incloses the text of the Law recently published in Tunis with reference to education, I have the honour to inform your Lordship that Herr von Holstein informed me to-day that the German Ambassador had been instructed to make representations to the French Government on the subject of the Law, and to intimate that the German Government were not prepared to acquiesce in its application.

Herr von Holstein added very confidentially that this step had been taken in order to prevent a bipartite controversy on the matter between Signor Crispi and M. Goblet, which might become acrimonious. By becoming party to it, the German Government hoped to restrain the vigour of Signor Crispi, and to modify M. Goblet's attitude by the consideration that Italy was not alone in disapproving of the Law. "Of course," added Herr von Holstein, "if we wanted war, we should not mind these fountains of bitterness between France and Italy, which are continually springing up; but, as we do not, we must keep a careful eye upon them."

I have, &c.

(Signed) EDWARD B. MALET.

No. 20.

Count Robilant to the Marquis of Salisbury.—(Received October 10.)

(Translation.)

Italian Embassy, October 8, 1888.

My Lord,

WITH reference to my note of the 24th ultimo on the subject of the new Law with regard to schools in Tunis, I have the honour to state to your Lordship that Signor Crispi has expressed a wish to be informed of the views of Her Majesty's Government on the applicability of that Law to the English school founded in the Regency by the London Jews Society. He wishes to know whether Her Majesty's Government intend to allow the Law to be applied, and to admit its validity, or whether they propose to declare it inapplicable and void with regard to the British school, as the Italian Government have done with reference to the numerous Italian schools in Tunis.

I should be extremely obliged if your Lordship would enable me to answer Signor Crispi's inquiry, and I avail, &c.

(Signed) C. ROBILANT.

No. 21.

The Marquis of Salisbury to the Earl of Lytton.

(No. 482.)

Foreign Office, October 15, 1888.

My Lord,

THE French Chargé d'Affaires spoke to me on the 13th instant on the question of the Tunis schools. He seemed much impressed with the hostile tone and temper of the Italian Government.

I stated to him that, in my opinion, the Decree as to the inspection of foreign schools in Tunis was unnecessary and inopportune, but that I did not in the least think it likely that the Italian Government nourished any designs of a warlike character against France.

M. Jusserand told me that the Italians had intimated their intention of rescinding the Protocol they had signed in respect to their rights under the Capitulations in Tunis. I said this would be a very strong measure, but I entertained very great doubt of their taking any such step.

I am, &c.

(Signed) SALISBURY.

The Marquis of Salisbury to Count Robilant.

M. l'Ambassadeur,

Foreign Office, October 16, 1888.

WITH reference to your Excellency's note of the 8th instant, inquiring whether Her Majesty's Government intend to admit the validity of the recent Law regarding schools in Tunis, I have the honour to inform you that the question is still under careful consideration, and I shall lose no time in replying to your Excellency's inquiry as soon as a decision has been arrived at.

I have, &c.

(Signed) SALISBURY.

No. 23.

Mr. J. G. Kennedy to the Marquis of Salisbury.—(Received October 22.)

(No. 256. Ext. 38.)

My Lord,

Rome, October 7, 1888.

I HAVE the honour to report that Signor Crispi yesterday informed me that he had protested at Paris against the Decree imposing inspection on all schools in Tunis, and that he meant to persist in his resistance to it.

I have, &c.

(Signed) J. G. KENNEDY.

No. 24.

Mr. J. G. Kennedy to the Marquis of Salisbury.—(Received October 22.)

(No. 262. Confidential.)

My Lord,

Rome, October 9, 1888.

WITH reference to my telegram No. 38 of the 7th instant, I have the honour to report that Signor Crispi informed me on Saturday last, the 6th instant, that he would shortly send an answer to the inquiry made by Her Majesty's Government respecting Mixed Courts in Tunis, conveyed to me in your Lordship's despatch No. 105, Commercial, of the 14th ultimo, but that the views of the Italian Government coincided with those of Her Majesty's Government.

Signor Crispi then alluded to the official inspection in Tunis of all schools recently decreed by the French Government, against which he had, he said, formally protested, and which he meant to resist. His Excellency inquired of me whether Her Majesty's Government would not join with Italy in resistance to that measure.

I replied that I had heard nothing on the subject from your Lordship, and that, as far as I knew, Her Majesty's Government had no interest in the question.

Signor Crispi rejoined that there was a very important British school in Tunis, and that the question interested the large Maltese population of Tunis.

I have, &c.

(Signed) J. G. KENNEDY.

No. 25.

Mr. J. G. Kennedy to the Marquis of Salisbury.—(Received October 22.)

(No. 169. Commercial.)

My Lord,

Rome, October 18, 1888.

I HAVE the honour to transmit herewith translation of a note which I have received from Signor Crispi, in reply to your Lordship's despatch No. 105, Commercial, of the 14th September, respecting the Decree revoking the authority of the French Tribunals in Tunis to review the decisions of the Mixed Local Tribunals in real property cases, the substance of which I communicated to his Excellency on the 18th ultimo.

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Signor Crispi observes that the suppression of the right of appeal from local Courts to the French Tribunals in Tunis would be a violation of existing Treaties, and would justify Italy in restoring her Consular jurisdiction, which is merely suspended, but not abolished.

His Excellency further expresses the readiness of the Italian Government to join with that of Her Majesty in any action for the maintenance of their common rights and interests in this matter.

I have, &c.
(Signed) J. G. KENNEDY.

Inclosure in No. 25.

Signor Crispi to Mr. J. G. Kennedy.

(Translation.)

M. le Chargé d'Affaires,

Foreign Office, Rome, October 16, 1888.

I BEG to acknowledge your note of the 18th September last.

The Decree of the President of the French Republic, published in the "Journal Officiel Tunisien," depriving the French Tribunals in the Regency of the power of reviewing the decisions of the local Tribunals in cases concerning real property, was not communicated to me until to-day.

But if the practical effect of that Decree should be to deprive Italian citizens in Tunisia of the right of appeal, or of the opportunity, afforded in certain cases to the defendant, of declining the jurisdiction of the Tunisian Courts, it seems to me that this would be a violation of the XXIInd Article of the Treaty of the 8th September, 1868, still in force between Italy and Tunis, according to which the defeated party shall always have the right of appealing to the competent Courts, and the defendant, in suits between two Italians, or between an Italian and a subject of a third Power, shall have the right of having the case brought before their respective Consular authorities, and through them to the existing French Tribunal.

With regard to this matter, it is well to point out that the Protocol of the 25th January, 1884, by which Italy, trusting that in Tunis justice would be administered by Magistrates of a Christian and civilized nation, consented to the suspension in that State of her own Consular jurisdiction, stipulated that the Treaties concluded with the Bey should continue in force, and also stated that the new system of jurisdiction might not be subsequently altered, except with the express assent of the King's Government.

Consequently, if now the Government of Paris shows signs of disregarding these Treaties by altering, of its sole authority and by one-sided measures, the jurisdiction of the French Tribunal at Tunis, Italy would, *ipso facto*, be fully entitled to revive her own Consular jurisdiction in that State, which was suspended temporarily, and never abolished.

The King's Government will, therefore, readily join that of Her Majesty in any action which it may take for the purpose of causing their common rights and interests in Tunis to be respected on this as on other occasions.

I avail, &c.
(Signed) F. CRISPI.

No. 26.

Mr. Beauclerk to the Marquis of Salisbury.—(Received October 22.)

(No. 324. Confidential.)

My Lord,

Berlin, October 19, 1888.

WITH reference to Sir. E. Malet's despatch No. 302, Confidential, of the 6th October, I have the honour to report that in my interview this afternoon with Baron von Holstein, his Excellency spoke to me at some length concerning the existing difficulty between France and Italy respecting the Decree concerning education in Tunis.

He informed me that the German Government had done all in their power to bring about an agreement on this question through their Ambassador at Paris.

On Tuesday last, the French Ambassador at this Court called on Baron von

Holstein, evidently in consequence of instructions which he had received from his Government, to request that the German Government should counsel "moderation" to Signor Crispi in the matter. Baron von Holstein replied that Italy was manifestly in the right under the Capitulations, and that Germany could scarcely advise their ally to give up an undoubted right at the desire of France. Personally, he would advise the French Government to let the matter drop for the time being, and to wait for a more favourable moment to bring it again to the surface. The recent difficulty between the two Governments at Massowah and several other incidents—perhaps of no very weighty importance—had roused the susceptibilities of the Italians, and it would surely be unwise to persist in forcing upon them a measure which they were really justified in resisting. Had the French Government relied on the known superiority of their schools in Tunis, which were already absorbing most of the attendance even of Italian scholars, the desired reform might have been gradually carried into effect without any great difficulty.

Baron von Holstein told me that he had communicated his answer to M. Herbetto to Prince Bismarck, and that the Chancellor had evidently approved of his remarks, since he had ordered them to be recorded and transmitted to the German Embassies at the principal Courts of Europe.

In reply to the representations of the German Ambassador at Paris, M. Goblet had stated that it was impossible for him to cancel the obnoxious Decree, but that he would be quite ready to grant all reasonable concessions with regard to its application to Italian schools in Tunis.

Information had been received from the German Ambassador in Rome, to the effect that Signor Crispi had expressed himself indifferent as to the actual withdrawal of the Law, provided that its application were not insisted upon by the French Government as far as the Italian schools are concerned.

"Thus," continued Baron von Holstein, "it may be hoped that the existing excitement in regard to this matter will, for the present, subside, and that an eventual solution of the difficulty will not be impossible."

His Excellency concluded by remarking that the Italian Government would probably not have been able to remain a day in power had they omitted to take serious notice of this infringement of their rights by energetic protest and action; and he added that, had not France taken possession of the important port of Biserta, it was quite likely that the triple alliance between Italy, Austria, and Germany might not have been accepted by the former nation.

I have, &c.
(Signed) W. BEAUCLERK.

No. 27.

Consul Ricketts to the Marquis of Salisbury.—(Received October 23.)

(No. 29.)

My Lord,

Tunis, October 15, 1888.

I HAVE the honour to acknowledge the receipt of a despatch No. 8 from Sir T. V. Lister of the 17th September of this year, requesting me to furnish a Report on the nature and extent of the taxes now levied on foreigners by the Municipalities of Tunis and Susa.

In compliance with these instructions I have, in the first place, the honour to forward herewith inclosed a list of the taxes levied within the Municipality of Tunis. Foreigners, it will be observed, pay taxes in the same ratio as those levied on natives. Hence these taxes do not fall on foreigners only, but bear on such of the population as are engaged in the calling or trade mentioned. Some fall altogether on the Arab, some on the Maltese, some on French, Italian, Arab, and Maltese, to what extent, however, it is impossible to say, there being no proper statistics collected on this subject.

It is difficult to ascertain with any degree of accuracy the population inhabiting this town, but it may be computed more or less as under:—

Arabs	..	..	..	..	..	..	..	100,000
Jews	..	..	..	..	..	..	..	35,000
Italians	..	..	..	..	..	..	..	15,000
Maltese	..	..	..	..	..	..	..	8,000
French (including officials)	..	..	..	..	..	..	..	3,000
Greek	..	..	..	..	..	..	..	400
								161,400

This does not include the protected subjects, who pay as foreigners. As regards the foreign element, therefore, the greatest contributors are Italians and Maltese.

In the Arab quarter of the town the houses are the property of natives, but in the new quarter, which has been built in the last few years, they belong chiefly to Italians and Maltese, the French being the smallest holders.

The Maltese alone are proprietors of some 800 houses and stores in this Municipality. In 1879 it was roughly calculated there were in this city 8,600 houses, 7,000 shops and stores, and over 200 coffee-shops. The amount received on account of taxation by the Municipality prior to the opening of the slaughter-house was, I am told, 2,865,700 piastres (71,642l.); this would now be somewhat greater.

The fruit-sellers in the streets have to pay more than any one else; the rates generally do not appear to be high.

The Municipality of Tunis is administered by a Council composed of—

- 1 President (an Arab, but a French official).
- 2 Vice-Presidents, French, each having two votes.
- 3 Members, French.
- 9 Arab Councillors (all French officials).
- 2 Members, Maltese.
- 2 " Italian.
- 1 " Greek.

Thus the French part of the Council has 17 votes, while the others, who are altogether in the majority as regards property and numbers, have but 5. Hence it would appear that this Department has been organized on a wrong basis, and that the community is not properly represented.

From the foregoing, it is obvious that French interests are likely to receive a greater share of attention than those of the other foreigners residing here, but will any steps be taken to bring about a reform in this matter?

I have also the honour to inclose a Report on this subject from the Vice-Consul of Susa.

I have, &c.
(Signed) G. T. RICKETTS.

Inclosure 1 in No. 27.
LIST of Municipal Taxes in Tunis.

Name of Tax.	Amount in Piastres.	Remarks.	Falls on—
Karouba	6½ per cent.	The 6½ per cent. is collected on the rent of houses, stores, &c.	Paid by landlords, French, Italian, Maltese, and Arabs.
Zibla	24 piastres per annum	This is collected from each house for payment of the expenses in carrying away the dirt of each house.	
"	12 " "	For carrying away by Municipality dirt thrown out in the street from stores.	
Dogs	8 " "	On all owners per dog, chiefly sporting dogs and guard dogs.	All Maltese.
Carriages	120 " "	Taken on public carriages ..	
Private carriages	24 " "	Taken on private carriages.	French, Italian, and Maltese.
European coffee-shops ..	10 " "	Per metre frontage of coffee-shops ..	
Arab coffee-shops	5 " "	Ditto	On Arabs only.
Buildings	4 " "	Per metre frontage occupied while building.	
Carts	24 " "	Per araba and such like, two wheels.	All Maltese.
Street hawkers	24 " "	Basket carriers	
Carts	36 " "	With one wheel, such as wheelbarrows, hawking goods.	Arabs.
Donkeys	60 " "	Employed in hawking goods ..	
Carts	120 " "	With one animal hawking goods ..	Maltese.
Fruit-sellers	600 " "	Per metre of stall occupied ..	
Flower-sellers	120 " "	Ditto	On Arabs.
Fines on hired carriages	16 " a time	i.e., each time an unfortunate man is found with his carriage, horse, or harness in bad order. This is a great abuse.	
Roads	40 " once only	i.e., for half the road made by the Municipality in front of each house, per metre.	Chiefly Maltese.
Drains	40 " when opened.	Per metre when opened or mended.	
Prostitutes	4 " per week	Equal to 208 piastres per annum = 5l. 4s.	.. ..
Milk-sellers	150 " per annum	.. ..

1 piastre = 6d. 1 carroube = 1½ farthing.
Foreigners pay the same as natives.

Inclosure 2 in No. 27.

Municipal Slaughter-house in Tunis.

TARIF des Droits à percevoir conformément au Règlement de l'Abattoir de Tunis.*

[DROITS D'ABATAGE.]

Espèce Bovine de 30 mois et au-dessus (quatre dents de remplacement).

Taureaux	12½ piastres par tête (per killing).
Boeufs et vaches	10 " "
Espèce bovine au-dessous de 30 mois	9 " "
Veaux de lait au-dessous de 3 mois	5 " "
Béliers et boucs	2½ " "
Moutons, brebis, chèvres	1½ " "
Agneaux et chevreaux au-dessous de 15 mois	1 " "
Porcs	10 " "
Sangliers	8 " "
Dromadaires (vulgairement chameaux)	10 " "

Droits sur les Viandes abattues en dehors de l'Abattoir.

Taureaux, boeufs, ou vaches	⅓ piastre per kilog. ou 2 carroubes.
Veaux	⅓ " " 3 " "
Béliers, boucs, moutons, brebis et chèvres	⅓ " " 2 " "
Agneaux et chevreaux	⅓ " " 3 " "
Porcs et sangliers	⅓ " " 3 " "
Autres viandes	⅓ " " 2 " "

1 piastre = 6d. 1 carroube = 1½ farthing.

* This comes heavy, because when an animal is bought the buyer pays a tax of 6½ per cent. on the value, but this is a general tax and not a tax imposed by the Municipality.

Droits sur les Issues.

Lavage à l'eau froide d'issues de taureaux, bœufs, vaches et chameaux	$\frac{1}{8}$ piastre par tête ou 4 carroubes.
Échaudage des pieds	$\frac{1}{8}$ " " 2 "
Lavage à l'eau froide d'issues de veaux	$\frac{1}{8}$ " " 2 "
Échaudage de la tête et des pieds	$\frac{1}{8}$ " " 4 "
Lavage à l'eau froide d'issues de brebis, boucs, moutons, &c.	$\frac{1}{8}$ " " 1 "
Échaudage des pieds	$\frac{1}{8}$ " " 1 "

Frais de Séjour pour chaque Nuit. (La première nuit n'est pas taxée).

Taureaux, bœufs, vaches, et chameaux	$\frac{1}{8}$ piastre par nuit au delà de 24 heures 6 carroubes.
Veaux	$\frac{1}{8}$ " " " 3 "
Béliers, boucs, moutons, brebis, chèvres	$\frac{1}{8}$ " " " 2 "
Agneaux et chevreaux	$\frac{1}{8}$ " " " 1 "
Porcs et sangliers	$\frac{1}{8}$ " " " 4 "

Annexé à la délibération du Conseil Municipal en date du 17 Décembre, 1887.

Vu et approuvé.

Le Premier Ministre,
(Signé) MOHAMMED-EL-AZIZ BOU ATTOUR.

Tunis, le 12 Mars, 1888.

Inclosure 3 in No. 27.

LIST of Municipal Taxes in Susa.

Zibla	2 $\frac{1}{8}$ piastres per month ..	For each door of a house or apartment, according to the importance of each.
"	2 " " " ..	
"	1 $\frac{1}{8}$ " " " ..	
"	1 $\frac{1}{8}$ " " " ..	
"	1 " " " " ..	
"	1 $\frac{1}{8}$ " " " ..	For each door of a store or shop, according to its importance.
"	2 " " " " ..	
"	1 $\frac{1}{8}$ " " " ..	
"	1 $\frac{1}{8}$ " " " ..	
"	1 " " " " ..	
"	3 $\frac{1}{8}$ " " " ..	For each door of an Arab bath or flour-mill, according to its importance.
"	2 $\frac{1}{8}$ " " " ..	
"	1 $\frac{1}{8}$ " " " ..	
"	1 " " " " ..	
"	1 $\frac{1}{8}$ " " " ..	For each door of a soap manufactory.
"	6 " " " " ..	For each door of a "fondouk" (inn).
"	4 $\frac{1}{8}$ " " " ..	
"	3 $\frac{1}{8}$ " " " ..	
"	2 " " " " ..	
"	4 " " " " ..	For each door of a tavern, restaurant, or hotel.
"	3 $\frac{1}{8}$ " " " ..	
"	2 " " " " ..	
"	1 $\frac{1}{8}$ " " " ..	
"	4 " " " " ..	For each door of large stores for the deposit of oil.
"	3 $\frac{1}{8}$ " " " ..	
"	3 " " " " ..	
"	2 $\frac{1}{8}$ " " " ..	
"	1 " " " " ..	For each door of oil-presses.
"	4 " " " " ..	
"	3 " " " " ..	
"	1 " " " " ..	
"	1 $\frac{1}{8}$ " " " ..	For each door of a yard for cattle.
"	1 " " " " ..	
"	1 $\frac{1}{8}$ " " " ..	

Zibla	7 piastres per month ..	For each door of a frying-shop.
"	6 " " " ..	
"	4 $\frac{1}{8}$ " " " ..	
Karouba	6 $\frac{1}{2}$ per cent. ..	Collected on the rent of houses, shops, stores, &c.
Carriages	3 piastres per month ..	On 4-wheeled carriages.
"	1 $\frac{1}{2}$ " " " ..	On 2-wheeled carriages.
Carts	3 " " " ..	Drawn by animal.
"	1 $\frac{1}{8}$ " " " ..	Drawn by hand.
Dogs	8 piastres a-year ..	For all species.
Building	5 piastres ..	For widening or changing a door.
"	2 " " " ..	For a window.
"	1 $\frac{1}{8}$ " " " ..	A metre for building or repairing the front of a house.
Buildings	1 $\frac{1}{8}$ piastre ..	Per metre frontage occupied while building.
Fines	1 $\frac{1}{2}$ to 5 piastres ..	Principally for building or demolishing without permission.
"	1 $\frac{1}{8}$ piastres ..	On each receipt of the Municipality for balance of a fee.
Fish-sellers	Or, 10 " " " ..	Per square metre a-day occupied by the seller.
"	" " " " " ..	Per month, at option.
Slaughter-house	5 " " " " ..	On bullocks.
"	5 " " " " ..	On swine.
"	2 " " " " ..	On camels.
"	1 $\frac{1}{8}$ " " " ..	On sheep.
"	1 $\frac{1}{8}$ " " " ..	On goats.
Prostitutes	Or, 4 $\frac{1}{2}$ " " " ..	For each medical visit at the hospital.
"	8 " " " " ..	If visited at home.

No. 28.

The Earl of Lytton to the Marquis of Salisbury.—(Received October 26.)

(No. 534. Confidential.)

My Lord,

Paris, October 25, 1888.

I AM informed by my German colleague that, at the outset of the misunderstanding which has arisen between France and Italy on the subject of the recent Beylical Decree relative to the inspection of European schools at Tunis, he was instructed to urge upon the French Minister for Foreign Affairs the expediency of making every possible concession to Italian susceptibilities in this matter. He was at the same time informed by his Government that, in its opinion, the Decree is *ultra vires*; and that, if appealed to, it must consequently support the protest which this step has provoked from the Government of Italy; whilst, at the same time, the German Government is extremely anxious to avert serious complications between France and Italy on such a subject, and at such a moment as the present.

In the meanwhile, however, the Italian Chargé d'Affaires in Paris had received a peremptory instruction to demand the revocation of the Decree within a specified period of time.

Count Münster considered that this instruction (which was confidentially communicated to him by M. Ressenman) amounted to an ultimatum. He therefore induced the Italian Chargé d'Affaires to act upon it only in a very mitigated form; and he pointed out to the German Government that the Italian demand, if persisted in, would result in a breach of relations between France and Italy. In consequence of his representations to that effect, communications passed between Count Herbert Bismarck and Signor Crispi, who gave the Count to understand that the least with which Italy could be satisfied would be a declaration by the French Government that the Beylical Decree is not applicable to Italian schools at Tunis. Upon this my German colleague obtained from M. Goblet an assurance that the French Government is willing to make such a declaration, and he was therefore hopeful that its dispute with the Government of Italy might be amicably settled on that basis.

This is the position in which matters stood yesterday when I attended M. Goblet's weekly reception of the Diplomatic Body.

At the Ministry for Foreign Affairs I met Count Münster, who had just left M. Goblet, and General Menabrea, who was waiting to see him, having returned to Paris on the previous day. To our surprise the Italian Ambassador then informed my German colleague and myself that his Government cannot accept the proposed declaration as an adequate satisfaction of its demands. On the contrary, he said, it regards that declaration as the evasion of a principle which it is bound to maintain, and the indirect assertion of another which it is resolved to resist by every means in its power. He was therefore about to inform M. Goblet that the declaration must be so framed as to cover the case, not only of all Italian schools actually existing at Tunis, but also of those which may at any future time be established there. In a word, so far as Italy is concerned, the principle implied by the Beylical Decree must be formally renounced, not only in practice, but in theory.

I subsequently asked M. Goblet what had been the result of his interview with General Menabrea. His Excellency replied that the personal character of it had been amicable on both sides, but that it had not led to any practical result. He had informed General Menabrea that it is impossible for France to make a formal declaration with regard to circumstances which have no actual existence, and he had not obtained from the General the least encouragement to hope that it may be in his power to satisfy the Italian Government, either by the declaration he is ready to make in reference to all Italian schools at present existing on Tunisian territory, or by the offer he has coupled with it, to place upon the Tunisian "Conseil d'Éducation" any number of Italian schoolmasters nominated by the Government of Italy.

M. Goblet further informed me that he had been reproached by the Italian Ambassador with not having given to the Italian Government any preliminary intimation of the intentions of his Government in a matter so seriously affecting Italian interests and privileges.

To this reproach he had replied that he is, and has ever been, anxious to consult the Italian Government confidentially, in a frank and friendly spirit, upon all matters in which the conduct of either of the two Governments may affect the interest of their respective subjects; but that he had received no encouragement to do so. In confirmation of this assertion, he instanced several illustrative cases. The Italian Government, he said, had curtly refused to entertain the friendly representations he had addressed to it in reference to French rights and interests affected by its action at Massowah.

Again, in conformity with arrangements recently concluded at Berne, Beylical post-offices had been established at Tunis, and the previously existing French offices were consequently suppressed. The Italian Government having refused to withdraw its own post-offices, or otherwise acknowledge this arrangement, which was one of general utility, without compensation to certain Italian Mail Companies, its Representative at Tunis had been requested to formulate its demands, with the assurance that they would be promptly and liberally considered by the Government of France; but he was prohibited from doing so by peremptory instructions from his Government.

M. Goblet, however, trusted that the influence of time would enable Signor Crispi to recognize and do justice to the conciliatory disposition of the French Government in this matter.

In the course of the same evening I had occasion to meet my Italian colleague again. He also referred to his interview with M. Goblet, and told me that his last words to the French Minister for Foreign Affairs were: "Do what you please about your Beylical Decree. We shall continue to treat it as 'non avenu,' and as for the influence of time, France must judge for herself as to the expediency of prolonging the theoretical assertion of an irritating and illegitimate pretension of which the practical application will be strenuously resisted by Italy if ever it is attempted in reference to Italian subjects or interests."

Count Münster expresses great regret at this language, which he characterizes as unreasonable and aggressive. But, however menacing may be the tone of the Italian Government, I am unable to see how active effect can be given to it so long as no pretext or occasion for action is furnished by any attempt to enforce the obnoxious Decree in the case of Italian schools actually existing at Tunis, and I have no doubt that this will be the view taken of it by the French Government.

I have, &c.
(Signed) LYTTON.

No. 29.

The Earl of Lytton to the Marquis of Salisbury.—(Received October 26.)

(No. 535. Confidential.)

My Lord,

Paris, October 25, 1888.

WITH reference to my accompanying confidential despatch No. 534 of this day's date relative to the present misunderstanding between France and Italy about Tunisian affairs, I think it worth while to mention that I was yesterday told by General Menabrea that M. Goblet asserts your Lordship to have given M. Jusserand an assurance that Her Majesty's Government recognizes the legitimacy of the Beylical Decree referred to in my above-mentioned despatch, and has no objection to the application of it in the case of the Maltese schools at Tunis.

In reply to his inquiry whether this assertion is correct, I informed my Italian colleague that I am not aware of any such assurance having been given to M. Jusserand. I had reasons, I added, to believe that, in the opinion of your Lordship, the Decree is unnecessary and inopportune, although there was no doubt in my own mind that Her Majesty's Government would not be disposed to regard it as a matter which could justify acts or threats of a warlike character on the part of the Italian Government.

I have, &c.
(Signed) LYTTON.

No. 30.

Foreign Office to the Law Officers of the Crown.

Gentlemen,

Foreign Office, October 27, 1888.

I HAVE the honour to transmit to you, by direction of the Marquis of Salisbury, the papers noted in the accompanying list,* with reference to a Decree of the Bey of Tunis, promulgated on the 15th September last,† and purporting to place all public and private schools within the Regency under the inspection of French officials, and to make the use of the French language compulsory in such schools.

The Italian Government hold (see the late Count Robilant's note of the 24th September last) that this Decree is not applicable to Italian subjects resident in the Regency, and the grounds upon which they base their contention will be found concisely stated in that note.

Lord Salisbury is disposed to think that the Italian contention is correct, and that Her Majesty's Government is entitled to claim for British subjects resident in the Regency of Tunis a like immunity from the operation of this Decree.

A Memorandum has been prepared showing the grounds on which, as is conceived, this Decree is, in so far as it purports to affect British subjects, beyond the powers of the Bey, and incapable of enforcement by the French Tribunals. (See my Confidential Memorandum of the 6th October, 1888.)

The French text of the Decree itself will be found, extracted from the "Journal Officiel Tunisien" of the 20th September last, at p. 4 of the Confidential Print herewith.

I am also, with reference to the binding effect upon France, under the Franco-Tunisian Treaty of the 12th May, 1881, of the existing Treaty obligations of the Bey, to refer to a Report which was furnished on the 28th April, 1886, to the then Secretary of State by your predecessors in office.

I am to request that you will take the papers transmitted herewith into your consideration, and that you will favour Lord Salisbury with your opinion as to whether Her Majesty's Government are entitled to contend that the Beylical Decree in question is inapplicable to British subjects, and, should you be of this opinion, his Lordship would further be glad to be informed whether the views put forward in my

* Confidential Print, North Africa (Section No. 458); Sir J. Pauncefote's Memorandum of October 6, 1888; Law Officers, April 28, 1886; Protocol (Italy and Tunis), January 25, 1884; Treaty (Italy and Tunis), September 8, 1869; Order in Council, December 31, 1883; "Tunis No. 6 (1881)," Parliamentary Paper, containing Franco-Tunisian Treaty; Correspondence respecting the Establishment of French Tribunals, &c. (Foreign Office Confidential Print, August 1883).

† Count Robilant's note says the Law was dated September 21, but it seems to be September 15. It is the extract from the "Riforma," which is dated September 21.—W. E. D.

Memorandum of the 6th October have your general concurrence as a statement of the grounds upon which the contention of Her Majesty's Government may properly be based.

I am, &c.
(Signed) JULIAN PAUNCEFOTE.

No. 31.

Colonel Swaine to Mr. Beauclerk.—(Received at the Foreign Office, October 29.)

(Confidential.)
(Extract.)

Berlin, October 24, 1888.

JUST as I was taking my leave, Count Waldersee asked me if I had heard anything from England as to French intentions at Bizerta (Tunis). I replied that I had learnt nothing of a particular nature. Upon which he answered, "Then I can tell you with certainty that the French are seriously contemplating converting Bizerta into a naval fortified port ('Kriegshafen')." He unfolded a Map, and, pointing to its position, explained that the Lake of Bizerta, which had a maximum depth of 11 metres, could easily be made into a magnificent harbour, perfectly safe from the enemy's shells, and that the entrance to it required very little dredging to make it navigable for the largest ships the world possessed. Italy, he said, was alarmed and irritated, and he did not think that we could look on with indifference at seeing a naval station—a second Cherbourg—being established by so formidable a rival on our direct road between Gibraltar and the Suez Canal.

No. 32.

Mr. Beauclerk to the Marquis of Salisbury.—(Received October 29.)

(No. 336.)

My Lord,

Berlin, October 27, 1888.

WITH reference to my despatch No. 324, Confidential, of the 19th instant, I have the honour to report that Baron von Holstein told me yesterday that he was glad to say that the dispute between France and Italy concerning the Education question in Tunis seemed in a fair way towards settlement.

M. Goblet had consented to the non-application of the obnoxious Decree to the existing Italian schools, and Italy had asked that all schools opened by Italians in the future should be equally exempted from the Law.

Thus the question was, at any rate, put aside for the present, and the two Governments appeared to be almost of one mind in the matter.

Baron von Holstein concluded his observations by the remark, that the question would probably be of interest to Her Majesty's Government as far as it might affect Maltese schools in Tunis.

I have, &c.
(Signed) W. BEAUCLERK.

No. 33.

Mr. Beauclerk to the Marquis of Salisbury.—(Received October 29.)

(No. 337. Confidential.)

My Lord,

Berlin, October 27, 1888.

WITH reference to Colonel Swaine's letter of the 24th instant, I have the honour to report that in conversation with Baron von Holstein yesterday, I took an opportunity of asking him whether he had heard anything as to French preparations for making a naval arsenal at Bizerta.

Baron von Holstein replied that he had no recent or definitive information on this subject, but that naval officers had reported to the Imperial Government on the great adaptability of the port for the purpose named.

I have, &c.
(Signed) W. BEAUCLERK.

No. 34.

The Marquis of Salisbury to the Earl of Lytton.

(No. 502.)

My Lord,

Foreign Office, October 30, 1888.

I HAVE to convey to your Excellency my approval of the language which you held to the French Minister for Foreign Affairs on the subject of the recent Beylical Decree affecting schools in Tunis, as reported in your despatch No. 535 of the 25th instant.

With reference to M. Goblet's assertion as reported by the Italian Ambassador, I have to observe to your Excellency that Her Majesty's Government have not expressed any opinion as to the legitimacy of the Decree, and reserve all the rights of this country with respect to its application to British subjects.

I am, &c.
(Signed) SALISBURY.

No. 35.

Consul Ricketts to the Marquis of Salisbury.—(Received November 1.)

(No. 19.)

My Lord,

Tunis, October 25, 1888.

I HAVE the honour to inform your Lordship that some short time ago a note was addressed to the French Resident by the Italian Agent and Consul-General at this place, setting forth his objections to the publication by the Bey's Government of the Law in reference to public and private schools, as well as the various foreign Associations in Tunis.

The ground taken up by the Italian Agent is that these Laws are not in accordance with the usages established by the Capitulations, and that they are contrary to the spirit of the 2nd Article of the Italian Protocol of 1884, as well as of the XIVth Article of their Treaty of 1868.

A reply to this note was on the 23rd instant received from the French Resident by the Italian Consul-General. In this document, Article XIV of the Treaty of 1868, as well as Article 2 of the Protocol of 1884, are mentioned as not having the consequence assigned to them by M. Berio.

An attempt is then made to prove that the rest of the Treaty of 1868 is in favour of the action taken by the French in this matter, Articles XV and XVIII being cited in favour of this assertion. The schools, the Resident reserves, not being especially mentioned in the Treaty, one cannot infer that they ought to escape from the surveillance that the Bey's Government has formally reserved as regards schools and Associations in general. That recent Decrees have respected international obligations without exceeding the rights of the "Protectorate," and that they have been limited to applying these rights, which are inseparable, from the burdens accepted by France through the debt of Tunis, and its army of occupation.

He maintains that the Government of the Republic has never tried to restrict any of the advantages guaranteed by the Treaty of 1884; that the recent Decrees are necessary for the introduction of progress in Tunis; and adds that the Government of the Republic would assume a grave responsibility in not carrying out a surveillance of the various schools, whether native or foreign.

As regards the Associations, the French Resident is of opinion that these should be regulated according to the laws of France, and, if left to themselves, they will be filled with abuses. He then remarks: "Respecting the Treaties, and using at the same time the rights that confer on us the quality of Protectors, we have taken the dispositions necessary to cover our responsibility, and to answer to the exigencies of public order. These do not hurt the Italian establishments, and do not hinder any from being founded in future; they reserve to the State the superior right of control that cannot be contested, and, therefore, are not prejudicial but favourable to their establishments."

In conclusion, he draws the attention of the Italian Consul-General to the friendly conversation he had with him some few days since, after receiving instructions from the Foreign Minister in Paris, and assures him that every Italian wanting to form a school in future will only be required to make a declaration to that effect, the inspection not being carried beyond the moral and sanitary state of the establishment,

the Government of the Protectorate having resolved to admit the Italian schools to have representatives in the Council of Public Instruction.

It will be observed from the foregoing that (1) the principle advocated by M. Berio, viz., the observance of Article 2 of the Protocol, and Article XIV of the Treaty of 1868, is passed over as little worthy of notice, Articles XV and XVIII relating to industries and banks being quoted in support of the introduction of the Laws in question; and (2) that the French Resident maintains the right of controlling all schools and Associations, the Italian Consul-General being politely invited to submit to this right by placing one or more members in the Council of Public Instruction. But this line of proceeding will, I am given to understand, not be accepted.

In the perusal of this note, which occupies numerous pages, an allusion is several times made to the word "Protectorate." Referring, however, to the Italian Protocol and the various Memoranda published on this subject in the years 1881 and 1883, I find no mention of the word "Protectorate;" indeed, it is somewhat difficult to understand how this pretension can be set up, in view of the fact that this country is admitted to be a dependency of the Sublime Porte, France herself having guaranteed by the Treaty of 1856 the integrity of the Sultan's territory, all the Capitulations entered into between that Power and the Sultan having been, moreover, confirmed by the Treaties of 1824 and 1830. (Articles I and VII.)

I would here beg to inform your Lordship that the Professor of the English Missionary School established for the purpose of converting the Jews in this country, M. Perpetua, has become a member of the French Commission of Public Instruction, a proof that he means to observe the French Regulations bearing on this subject.

On the other hand, the Maltese "Società Patriottica" is, I hear, likely to raise objections to any interference on the part of the police; they say also that they will not permit the police to enter their residence for the sake of carrying out the French Regulations. They maintain, like the Italians, that, under the Capitulations, they formed a colony apart from the natives, enjoying many privileges and immunities, the which, though not especially mentioned in the Treaties, were never contested. That these immunities have become a right long established by custom, and that any detraction from this right is a deprivation of those privileges generally which were guaranteed them under the various Treaties and Capitulations. They invoke in their favour Article 2 of the Italian Protocol, and Article XIV of the Italian Treaty of 1868, as well as Article V of the Treaty of 1875 in reference to inviolability of domicile; and they contend that though, by the Arrangement entered into in 1883, the Consular jurisdiction was suspended, all other privileges and advantages, commercial and social, guaranteed by Treaties, were reserved, and, consequently, that their Society ought to be left without having to submit to any interference or molestation on the part of the police or the officers of the Bey's Government.

Should your Lordship be of opinion that the Maltese community are right in the view taken by them of this subject, I trust that representation will be allowed to be made through Her Majesty's Representative at Paris, for the purpose of setting aside the execution of the Decrees herein spoken of.

Since writing the above, I have received the "Tunis-Journal," the organ of the French Residency, an extract of which is herewith inclosed. In this it is stated among other things that "having established the principle, this is sufficient for the moral effect, and that they are perfectly free to choose the day and the hour when it shall be applied."

In other words, if any reliance can be placed in newspaper publications, this matter will not be pressed any further at present.

I have, &c.
(Signed) G. T. RICKETTS.

Inclosure 1 in No. 35.

Extract from the Italian Protocol of January 25, 1884.

ARTICLE 2. Sauf cette dérogation au régime actuel, il est expressément convenu que toutes les autres immunités, avantages, et garanties assurés par les Capitulations, les usages, et les Traités restent en vigueur.

Le maintien de ces immunités et garanties est intégral envers les personnes et

résidences Consulaires; il doit, envers les particuliers, n'être assujéti qu'aux restrictions absolument nécessaires pour l'exécution en Tunisie des sentences que les nouveaux Tribunaux rendront d'après la loi. Il n'est pas dérogé quant à leur exécution en Italie, aux règles en vigueur pour l'exécution des Jugements étrangers.

Inclosure 2 in No. 35.

Extract from Treaty of September 29, 1868, between Italy and Tunis.

ARTICLE XIV.

LES citoyens de chacun des deux États Contractants jouiront sur le territoire de l'autre de la plus constante protection et sûreté, et ils jouiront à cet égard des mêmes droits ou privilèges qui sont accordés, ou qui le seront, aux nationaux, en se soumettant aux conditions, aux impôts et autres charges qui sont imposés à ces derniers, sauf ce qui est établi à la fin de l'Article VIII.

Cependant, ils seront exempts dans les États de l'autre Partie du service militaire obligatoire, soit dans l'armée soit dans la marine, dans la Garde Nationale, ou dans la milice; ils seront aussi exempts de tout devoir judiciaire et municipal, comme de toute contribution en argent ou en nature imposée en compensation du service personnel.

Aucune innovation n'est apportée à ce qui concerne la protection et la tutelle qu'exerce le Consul d'Italie à Tunis sur ses propres nationaux, ni aux droits supérieurs d'immunités ou privilèges dont ceux-ci sont en jouissance, en vertu des Traités, des Lois, et des usages.

La protection la plus étendue et complète est assurée par le Gouvernement Tunisien à l'exercice de quelque culte que ce fût que professeraient des nationaux Italiens.

ARTICLE XV.

Les sujets de chacune des deux Parties Contractantes pourront exercer dans les États de l'autre toute espèce d'arts, de professions, et d'industries; ouvrir des fabriques et des manufactures, et introduire des machines mues par la vapeur, ou par toute autre puissance motrice, sans être assujettis à d'autres formalités ou à d'autres taxes que celles que les Lois ou Règlements généraux ou municipaux du pays imposeront aux indigènes.

Les édifices des fabriques et leurs attenances, étant des biens immeubles, seront soumis dans le Royaume de Tunis aux stipulations de ce présent Traité qui sont relatives à de telles propriétés en général.

Après une demande préalable adressée par écrit par son Excellence le Ministre des Affaires Étrangères de Son Altesse le Bey, ou par le Président du Conseil Municipal, au Consul-Général, ou, en son absence, à la personne qui le représentera, les officiers du Gouvernement de Tunis pourront visiter la fabrique et faire les recherches suffisantes pour vérifier les infractions aux Lois et aux Règlements généraux ou municipaux d'hygiène, de police, de finances, ou d'autre nature et en référer au Gouvernement de Son Altesse le Bey qui pourra pourvoir aux moyens de faire cesser l'irrégularité dénoncée, et de faire appliquer d'une manière légale et par un Juge compétent les peines fixées par les Lois; mais il ne pourra pas en aucun cas empêcher, réduire, ou suspendre l'exercice légitime de l'industrie manufacturière à laquelle la fabrique est destinée.

ARTICLE XVIII.

Les citoyens de chacune des deux Parties Contractantes pourront librement établir dans les États de l'autre des Sociétés commerciales, industrielles, et de banques, des Associations mutuelles et en participation, ainsi que toute autre Société, soit entre eux, soit avec des sujets Tunisiens ou d'une troisième Puissance, pourvu qu'elles se proposent un but légitime et qu'elles se soumettent aux lois du pays dans lequel elles s'établissent.

Néanmoins, les Sociétés en Commandite dont le capital serait divisé en actions nominales, ou au porteur, ainsi que les Sociétés Anonymes, ne pourront point s'établir sur les territoires respectifs sans l'autorisation du Gouvernement Local.

Extract from Treaty of August 8, 1830, between France and Tunis.

ARTICLE VII.

Les Capitulations faites entre la France et la Porte, de même que les anciens Traités et Conventions passés entre la France et la Régence de Tunis, et nommément le Traité du 15 Novembre, 1824, sont confirmés, et continueront à être observés dans toutes celles de leurs dispositions, auxquelles le présent Acte ne dérogerait pas.

Extract from Treaty of 1824 between France and Tunis.

ARTICLE I.

Tous les Traités de Paix faits entre l'Empereur de France et Sa Majesté le Sultan Ottoman, ou entre leurs prédécesseurs, ainsi que tout Traité qui sera conclu entre l'Ambassadeur de France à Constantinople et la Sublime Porte dans la vue de serrer les liens de paix et union entre les deux susdites Cours, seront strictement observés et reconnus par la Régence de Tunis et la Cour de France sans la moindre déviation d'un parti ou l'autre secrètement ou publiquement.

Inclosure 3 in No. 35.

Extract from the "Tunis-Journal" of October 25, 1888

LES ÉCOLES ITALIENNES.—Il semble que la question des écoles Italiennes à Tunis préoccupe plus qu'il ne convient un certain nombre de nos compatriotes. C'est la faute à M. Crispi, qui nous a tous rendus plus ou moins nerveux, à force d'incidents et de provocations; mais c'est aussi la faute du tempérament national qui nous fait prendre trop vivement les choses, et nous porte à leur prêter immédiatement, par l'imagination, toute une série de conséquences. C'est ainsi que la protestation du Consul d'Italie à Tunis contre le Décret Beylical relatif aux écoles, a pris instantanément aux yeux de certaines personnes des proportions colossales: ne lisions-nous pas hier encore à ce propos, dans un journal, les mots de *casus belli*?

Voilà qui est faire bien naïvement le jeu des provocateurs Italiens. Comment ne voit-on pas que la tactique de la "Consulta" à notre égard est précisément de faire naître des incidents, de les grossir, de les trainer en longueur, et qu'en les prenant nous-mêmes avec tant de bonne volonté au tragique, nous faisons sottement la chose du monde la plus agréable à M. Crispi? Le successeur de Depretis et de Robilant ne cesse, en effet, de faire dire à tout propos et hors de tout propos, par une presse très disciplinée, que la situation est grave, d'abord, et que la France, ensuite, en est bien entendu responsable. C'est en suivant avec beaucoup de constance et d'habileté cette méthode, que l'homme d'État Sicilien travaille à se donner personnellement de l'importance, à maintenir en Italie un état d'esprit favorable à ses vues, à se faire passer pour l'homme nécessaire et à répandre chez lui et chez les autres cette idée que s'il lui arrive si souvent d'avoir l'apparence d'un Gallophobe, c'est toujours et chaque fois la faute de notre Gouvernement, de nos journaux, de nos diplomates, de la France enfin, que cet excellent homme ne demanderait qu'à aimer cordialement.

Le Décret du Bey n'est pas le premier prétexte saisi avec empressement par lui pour jouer cette petite comédie, et ce n'est pas le dernier; mais nous sommes bien convaincus jusqu'ici, quant à nous, que l'affaire, qui peut être plus ou moins gênante et délicate pour les hommes chargés de la traiter, pour M. Massicault, par exemple, ne sortira pas des limites d'un incident secondaire et ne présentera même jamais la gravité, très relative après tout, de l'incident de Massaouah.

Sur quoi porte en effet la difficulté? Sur le droit, contesté par les Italiens, que peuvent avoir les Inspecteurs Beylicaux de pénétrer dans les écoles Italiennes. La question, pour le moment, reste donc absolument théorique: nous ne savons même pas en quels termes le Consul Italien a présenté ses réclamations; nous savons encore moins ce que lui répondra M. Massicault; mais nous pensons qu'en termes courtois et conciliants il s'efforcera de faire comprendre à l'Agent de M. Crispi que le Gouvernement Beylical, aujourd'hui protégé de la France, n'a fait qu'user d'un droit élémentaire en publiant le simple Décret que provoque les difficultés actuelles.

Et après? Après, le Résident de France attendra le moment opportun où il

pourra donner à ses Inspecteurs, si le besoin s'en fait sentir, l'ordre de visiter les écoles Italiennes à Tunis. Le principe est posé et maintenu: c'est très suffisant jusqu'ici pour l'effet moral. Le jour où il y aurait urgence à l'appliquer, on l'appliquerait; les Italiens ont bien appliqué à Massaouah la politique de M. Crispi, qui était, elle, parfaitement contraire au droit strict.

Mais c'est là une supposition, une question hypothétique, visant l'avenir, et cet avenir, en aucune façon, ne doit être très rapproché; il ne le serait que si nous le voulions, car nous sommes parfaitement libres de choisir notre jour et notre heure. Les Italiens savent très bien que nous n'avons encore pour le moment nulle raison de nous hâter: c'est même là ce qui explique à nos yeux l'empressement des protestations Italiennes; et encore pouvons-nous remarquer—le fait est curieux—que l'on a laissé à un organe qui n'engage pas le Gouvernement, à la "Tribuna," le soin de poursuivre *ex professo* la discussion. C'est la "Tribuna" surtout qui disserte longuement, qui invoque les Traités et les textes; c'est elle qui dénie d'une façon absolue le droit aux Inspecteurs Français de pénétrer dans les écoles Italiennes. Les feuilles officielles n'ont même pas formulé à ce propos de déclarations formelles, et l'on voit par cela seul de combien il s'en faut qu'il y ait, comme quelques-uns l'ont cru, péril en la demeure.

No. 36.

Consul Ricketts to the Marquis of Salisbury.—(Received November 6.)

(No. 20.)

My Lord,

Tunis, October 29, 1888.

I HAVE the honour to inform your Lordship that a French transport, called the "Isère," arrived on the 27th instant at Bizerta, and discharged at that port 200 tons of coal, one barge full of iron, some torpedoes, and machinery for the manufacture of torpedoes.

I inclose herewith an extract from the "Tunis-Journal" of the 26th October, in which an allusion is made to the establishment of a floating dock in the harbour above mentioned.

I have, &c.
(Signed) G. T. RICKETTS.

Inclosure in No. 36.

Extract from the "Tunis-Journal" of October 26, 1888.

LE port de Toulon a reçu l'ordre de préparer un stock de charbon spécial d'Anzin pour les torpilleurs du dépôt de Bizerte, où l'on va transporter prochainement un dock flottant pour ces petits navires. Le dock est en achèvement dans les ateliers de Fives-Lille (Nord), qui en ont plusieurs à construire pour le compte du Gouvernement.

No. 37.

M. Catalani to the Marquis of Salisbury.—(Received November 7.)

(Translation.)

My Lord,

20, Grosvenor Square, November 5, 1888.

SIGNOR CRISPI informs me that the British Chargé d'Affaires in Rome has called his attention to a Decree of the French Government published in the official Gazette of Tunis, in which the President of the French Republic withdraws from the French Tribunals, which have recently been substituted for the English Consular Courts (and for the different foreign Consular Courts), the duty of hearing appeals from the decisions of the Local Mixed Courts in cases concerning real property. As this provision has the effect of depriving English subjects (and also the subjects of the other foreign Powers) of the right of appeal from the decisions of the Local Courts, Mr. Kennedy asked the opinion of the Italian Government on the matter.

Signor Crispi informed the British Chargé d'Affaires, in reply, that he had not yet received the Decree in question. He observed, however, that if the Decree had the

effect stated by Mr. Kennedy, it would violate, as concerns Italy, Article XXII of the Treaty of the 8th September, 1868, between Italy and Tunis, and would set aside the conditions set down in the Protocol of the 25th January, 1894, under which Italy consented to suspend Consular jurisdiction in Tunis. He added that if the Government of Paris appeared to intend not to abide by the Treaty and the Protocol, but to alter the jurisdiction of the French Court in Tunis of their own authority and by provisions having their assent only, Italy would be at once fully entitled to revive her Consular jurisdiction, which has been temporarily suspended, but in nowise abolished.

Signor Crispi stated, in conclusion, to the British Chargé d'Affaires, that His Majesty's Government would willingly associate itself with the Queen's Government on this as on other occasions in any steps taken to cause the rights of Italy and England in Tunis to be respected.

I have the honour, in connection with the above-mentioned communication made to the British Chargé d'Affaires, to beg your Excellency to be so good as to inform me what steps Her Majesty's Government has taken, or intends to take, in the matter in question.

With anticipated thanks for the answer, &c.

(Signed) T. CATALANI.

No. 38.

Memoranda dated November 14, 1888.

(A.)

THE port of Bizerta is situated inside a bay of semicircular form, which makes a good roadstead. From the bay a natural channel about 2 kilom. long runs into a lake, the real inner harbour.

The depth of the latter appears to be about 11 metres; in some places it is deeper than this; it covers an area of 150 square kilom. The lake is therefore large enough and deep enough for any fleet.

The chain of sand hills which separates the inner harbour from the open sea and the surrounding eminences prevents it from being seen or bombarded from the direction of the open sea, and affords protection against the wind.

The channel which runs out to the sea through a sandy tract is at the present time much choked with sand; its depth is $1\frac{1}{2}$ to 2 metres, its average breadth about 200 metres. It would be easy to deepen it by dredging the sandy bottom, and to cut through the sand hills in order to make further channels to the sea. At the most favourable point for the cutting, a new channel 3,000 metres long could be constructed. From the point where the channel reaches the sea, it is necessary to go out 250 metres before reaching a depth of 10 metres. It would be easy to continue the channel to this point, nor would the necessary precautions against the drifting of sand present any difficulty. Behind Bizerta is the most fertile and populous part of the Regency of Tunis; the capital is 60 kilom., and the nearest railway station, Tebourka (on the Algerian and Tunisian Coast Railway), 45 kilom. from Bizerta. If the railway were brought up to Bizerta, which could easily be done under the favourable circumstances of the ground, &c., that town could be supplied with everything necessary from all parts of Algeria and Tunis.

It may be concluded, from what has been stated above, that a strong military port could be established at Bizerta in the space of two or three years, at a moderate cost. Its chief advantage would lie in the complete security which would be enjoyed by any fleet in the inner harbour and the sheltered position of the buildings, &c., devoted to the service of ships of war and merchant-vessels in the port.

Such a port would influence to a very considerable extent the future development of the political and commercial relations of France and Tunis, and would serve as a base for the consolidation and extension of the African possessions of the Republic.

At the present moment, France does not possess a single important harbour on her African coast. It would therefore appear to be the natural course for her to carry out the scheme for the construction of a military port at Bizerta. A proposal to make the new port equal in extent and armament to Cherbourg, Brest, and Toulon has appeared in the French press. The only steps that have been taken, so far as is known, are that General Miribel surveyed the district of Bizerta in the spring of 1888, and that it has been decided to bring a floating dock for torpedo-boats to Bizerta.

If the plan is carried out, the balance of power on the Mediterranean will be affected to a considerable extent, the power of France as compared with Italy and England will be greatly increased, and the chances of the success of any undertaking on the part of France in the Mediterranean materially improved, especially in view of the efforts she is making to fortify the port of San Bonifacio in Corsica.

Bizerta is situated where the sea that divides Sicily from Africa is narrowest, 30 geographical miles from Sicily and Sardinia, and 60 miles from Naples. None of these places have been sufficiently fortified by Italy.

A fleet that could rely on the fortified port of Bizerta for shelter would not only be able to interrupt the communication between the western and eastern parts of the Mediterranean, but would also threaten the coasts of Sicily and Southern Italy. Any attempts of the kind would at the present time have to be made from Toulon, and the French would be hampered by having the Italian fleet, with Spezia behind it, on their flank.

The possession of a military port at Bizerta would also enable France to make use of any troops she could spare from Africa for effecting a landing in Sicily or Southern Italy. She could mobilize for the purpose within eight days about 20,000 infantry, 3,000 cavalry, and 24 to 36 field-pieces at Bizerta and Gouletta (on the Bay of Tunis); it would take ten hours to transport them to Sicily, twenty to Naples. A French military port at Bizerta, the narrowest part of the Mediterranean, would also most seriously threaten the English line of communication between Gibraltar, Malta, Suez, and the Levant. The value of Cyprus and the Suez Canal, the possession of which has hitherto insured the preponderance of power on the Mediterranean to England, would probably be greatly diminished by the construction of a great French military port close to the British line of communication.

The French Estimates for 1889 do not throw any light on the intentions of the French Government with regard to Bizerta.

(B.)

Bizerta.—I. Its Position and Surroundings.

Bizerta is situated 32 marine miles north-north-west of Tunis, on the shore of the Mediterranean at about the most northerly point of Africa, and where the lake which has the same name as the town has its outlet into the sea. The town is situated on both sides of the channel, and in part on an island in the channel. It has about 8,000 inhabitants, and is surrounded by a wall about 10 metres high. A citadel and a few forts, mostly in ruins, complete the defences of the place. There is a railway from Bizerta to Tunis, and the town is thus connected with all the great ports of Algeria.

The lake, which is situated to the south of the town, runs in a south-westerly direction for about 4 marine miles (7,300 metres), at a breadth of about 1,000 metres, and then expands into a large basin in the form of a rectangle, the length of which from north to south is 5 marine miles, and the breadth from east to west about 7.5 marine miles; the depth of the lake varies from 3.7 to 12.8 metres. Behind the town there is a small eminence, otherwise the immediate neighbourhood is flat. The hills which run along the northern coast of Tunis in a westerly direction begin to the north-west of the town; the peninsula between the lake and the sea to the south of the town contains a few slight eminences. The roadstead of Bizerta has a bad anchorage, and is quite open to the north and east.

II. Bizerta as a Military Port.

Bizerta was once one of the best harbours on the Mediterranean, and might again be made so without great difficulty. Admiral Aube, formerly French Minister of Marine, had the intention of founding a great marine arsenal there, but his proposal was rejected. However, the idea of utilizing the advantages afforded by the position of Bizerta has not been given up. The lake is deep enough to admit the biggest ships after a very moderate amount of dredging, and it would only be necessary to make a sufficiently deep channel to connect the lake and the sea. Such a channel was formerly planned, and it was proposed to carry it straight through the intervening wall of sand to the south of the town. It is not known whether steps have yet been taken to carry out this project. The channel which passes through the town has,

however, been deepened so as to allow torpedo-boats to enter the Lake of Bizerta, and according to the latest information a floating dock specially adapted for torpedo-boats is to be brought to Bizerta, and a torpedo station established there.

There is really not a single natural harbour on the coast of Algeria. It is true that artificial harbours have been constructed at the principal ports, but, apart from the fact that they often afford insufficient shelter to ships, they are in all cases so situated that it is possible to bombard the town, the arsenals, and the ships from the direction of the sea. The construction of a military port is therefore very difficult on the Algerian coast. At Bizerta there are no drawbacks of this kind. The wharves, docks, depôts, &c., could be constructed so far inland that a bombardment would be impossible if the enemy's ships were prevented from entering the harbour. This could easily be done by means of the proper permanent means of defence. It is true that the present fortifications of Bizerta are quite worthless, and apparently no steps have yet been taken to improve them, either on the sea side or land side. There would, however, be no difficulty in constructing proper works, and the configuration of the coast would facilitate the defence of the harbour in a high degree, since the neighbouring high ground would make it possible to construct works to a considerable height, and the bend of the coast-line would make it easy to bring a concentric fire to bear upon the enemy. All these advantages of Bizerta, but especially the ease with which an excellent harbour could be constructed, have long been known and appreciated, both by the French and the English. The harbour could, however, only be used for military purposes if it were so arranged as to afford sufficient protection to ships within it, that is, if it were properly fortified.

III. The Strategic Position of Bizerta.

The prominent position of Bizerta on the most northern extreme of Africa gives it especial importance; Sicily and Sardinia can be reached from Bizerta in a swift vessel in eight hours, Naples in twenty, and Malta is not more than sixteen hours distant. At the same time, the town occupies a flank position with regard to ships cruising between Northern Africa and the Italian islands to the east or west. Hence, Bizerta is strategically of the first importance.

If France were engaged in war on the Mediterranean, Bizerta, if it were converted into a military port, would undoubtedly play an important part; Italy especially would be seriously threatened. So long as Toulon is the only French military port on the Mediterranean, and so long as the Algerian ports situated to the east cannot be used as bases of operation, Italy will be tolerably well protected by Maddalena and Spezia against any offensive operations on the part of the French; the Italians are also in a position to attack the coast of Algeria from Maddalena, and to interfere with the communications between the Colony and the mother country. The situation would be entirely changed if Bizerta were made a military port and secure place of refuge. The coasts of the Tyrrhenian Sea, the islands, and Calabria would be threatened from Bizerta, and Italy has no suitable port to oppose to it, either in the south of Sardinia or the west of Sicily. Bizerta would be of the same importance to France as Maddalena is to Italy, a strong military port in the neighbourhood of the enemy's coast. At the same time, this port would afford a flank position for the defence of Algeria, and would be a place from which a sudden invasion of Italy at some point on the west coast could easily be undertaken, in view of the considerable numbers of troops at the disposal of France and the convenient railway system.

The position of England on the Mediterranean would also be affected to a considerable extent. The hitherto free passage between Cape Bon and Sicily could easily be controlled by the French from their new position, and, in the case of a war with England, the line of communication between Gibraltar and Malta and Suez would be seriously threatened. Even a small French squadron, too weak to oppose the British Mediterranean fleet, would be able to prevent British merchant-vessels from going to or from India through the Mediterranean, and a strong fleet could, from Bizerta, effectually prevent the junction of two British squadrons, or of a British and an Italian squadron. For her own operations in the East, France would gain a strong station hardly inferior to Taranto or Malta.

It appears, then, that the fortification of Bizerta and the construction of a military port there would greatly improve the position of France on the Mediterranean, and correspondingly damage Italy and England. If France fitted out a fleet at Bizerta, Italy would have to prepare for attack from the south as well as from the west, from Africa as well as from Toulon, and would therefore be forced to station

a portion of her ships on the coast of Sicily and at Naples, and to place strong corps of observation on the coast of Southern and Central Italy. The troops and ships at her disposal for active operations would, under these circumstances, be very much fewer in number than if she had to fear an attack from one side only.

As regards England, the communications between her and India would be directly threatened, and she would have to increase her Mediterranean fleet to a considerable extent if it is to be strong enough both to act offensively and to watch Bizerta. At the present moment, the co-operation of England and Italy would insure to the two allies the command of the sea, and would leave Italy free to concentrate all her forces on the French frontier, but if Bizerta were turned into a military port, it is doubtful whether Italy could effectually guard her coasts.

[The three Sketches annexed to these Memoranda will be found in Confidential Paper No. 5747, p. 55.]

No. 39.

Consul Ricketts to the Marquis of Salisbury.—(Received November 15.)

(No. 21.)

My Lord,

Tunis, November 9, 1888.

I HAVE just had an interview with M. Berio, who, under instructions from his Government, has informed the Resident this morning that the Italian Government cannot allow the Decrees lately published in reference to schools and Associations to be applied, either for the present or the future, to Italian subjects in Tunis. At the same time, he requested the Resident to take act of this declaration. The Resident replied that he would send an answer on Sunday, but that he could not take act of this declaration. The matter in dispute remains, therefore, unsettled.

I have, &c.

(Signed) G. T. RICKETTS.

No. 40.

Consul Ricketts to the Marquis of Salisbury.—(Received November 16.)

(No. 22.)

My Lord,

Tunis, November 9, 1888.

ANOTHER difficulty is, I think, likely to arise between the French Resident and the Italian Agent at this place.

This relates to the publication of a new Decree in reference to the establishment of a Court of Appeal at Tunis.

The French Resident desires the Italian Agent to give his assent to this Decree prior to its publication, but M. Berio says he cannot do this unless the Resident in the first place writes him officially on this subject. He considers this the proper step to be taken prior to any change being made in the existing state of affairs. The French Resident, on the other hand, appears disinclined to take this step, and is desirous that this matter should be arranged here without any reference being made to Rome in the first place. But this method of proceeding cannot well be adopted by the Italian Agent, inasmuch as in the Protocol it is expressly stated: "Le nouveau régime juridictionnel ne pourra être ultérieurement modifié qu'avec l'approbation expresse du Gouvernement du Roi."

I have, &c.

(Signed) G. T. RICKETTS.

No. 41.

Sir A. Paget to the Marquis of Salisbury.—(Received November 17.)

(No. 348. Confidential.)

My Lord,

Vienna, November 13, 1888.

IN an interview I had with Count Kálnoky yesterday, his Excellency mentioned to me confidentially, with reference to the controversy between the French and Italian

Governments respecting the inspection of schools in Tunis, that he had suggested to Signor Crispi the desirability of treating this question in a conciliatory spirit, and he believed the same advice had been tendered also by the German Government.

His Excellency hoped that the advice had been attended to, and that the matter was now in a fair way of adjustment.

I have, &c.
(Signed) A. PAGET.

No. 42.

The Marquis of Salisbury to M. Catalani.

M. le Chargé d'Affaires,

Foreign Office, November 17, 1888.

I HAVE the honour to acknowledge the receipt of your communication of the 5th instant, in which you request to be informed of the steps which Her Majesty's Government propose to take in consequence of the Decree of the President of the French Republic of the 17th July, 1888, withdrawing the jurisdiction of the French Courts over cases of real property in Tunis.

I have to acquaint you that by the Order in Council of the 31st December, 1883, British Consular jurisdiction was abolished "as regards such matters and cases as come within the jurisdiction of the French Tribunals." But those Tribunals having, by the Decree just issued, been deprived of the jurisdiction previously exercised by them in real property cases, this country must, of course, revert to its Treaty rights until the French Courts are invested *de novo* with the jurisdiction in Tunis; otherwise, in such cases British subjects would be under the exclusive and absolute jurisdiction of the Native Tribunals, contrary to the provisions of the Treaties.

Her Majesty's Consul in Tunis has been instructed to inform the French Resident in that State accordingly.

I have, &c.
(Signed) SALISBURY.

No. 43.

Foreign Office to Consul Ricketts.

(No. 16.)

Sir,

Foreign Office, November 17, 1888.

THE Marquis of Salisbury has had under his consideration the Decree of the President of the French Republic of the 17th July, copy of which accompanied Acting Consul Carbonaro's despatch No. 16, Commercial, of the 3rd August, withdrawing the jurisdiction of the French Courts over cases of real property in Tunis. That jurisdiction was exercised by the Native Tribunals subject to the restrictions in the Treaties between this country and the Bey.

Under the stipulations of those Treaties, the sentence of the Native Tribunal could only be carried out against a British subject by the British Consul, and in suits between two British subjects the parties had the right to remove the proceedings to the British Consular Court.

By the Order in Council of the 31st December, 1883, British Consular jurisdiction was abolished "as regards such matters and cases as come within the jurisdiction of the French Tribunals."

But those Tribunals having, by the Decree just issued, been deprived of jurisdiction in real property cases, this country must, of course, revert to its Treaty rights until the French Courts are invested *de novo* with the jurisdiction in question; otherwise, in such cases British subjects would be entirely at the mercy of the Native Tribunals.

I am directed by his Lordship to instruct you to inform the French Resident in Tunis accordingly.

I am, &c.
(Signed) JULIAN PAUNCEFOTE.

No. 44.

Consul Ricketts to the Marquis of Salisbury.—(Received November 20.)

(No. 23. Confidential.)

My Lord,

Tunis, November 12, 1888.

I HAVE the honour to transmit herewith inclosed to your Lordship two documents of a Socialistic nature published at Tunis on the 11th November.

A number of these were circulated yesterday in the town, the authors of this work having been a Neapolitan doctor and two or three others.

They have all been arrested. It is somewhat extraordinary that such a publication should have been circulated at the present moment by these people, as they have been residing here for the last two or three years, and were already denounced to the police by the late Italian Consul-General, M. Malmusi.

The language of these enthusiasts is, I need hardly say, not likely to have any effect on the inhabitants of this country, inasmuch as the Italian element is peaceful enough, and the Arab is too lazy to trouble himself about such matters.

Whether this is the work of the Italians themselves, or whether, being needy, they have lent themselves to carry out the designs of others, it is difficult to say. It might be that they thought this the proper course to be taken by them to resent the virulent attack made on the Italian workmen by a certain Eugène Pongiglione in the "Tunis-Journal," the organ of the French authorities, on the 7th November, an extract of which is herewith inclosed. E. Pongiglione is a native of Corsica, a French subject, and was at one time a schoolmaster employed in a Tunisian Government school.

Political capital will, however, probably be made out of this manifesto by those whose sole object is the annexation of this country.

I have, &c.
(Signed) G. T. RICKETTS.

Inclosure in No. 44.

Manifests by Socialists in Tunis.

(Translation.)

International Association of Labourers.

To Labourers; to all the Oppressed. Companions!

THE 11th December is an unhappy day for the labourers of the whole world. It is a year ago that the Republic ordered the execution at Chicago of four of our most active propagandists, only guilty of wishing the complete emancipation of labourers.

It is not to shed tears on the tombs of these martyrs that we this day address you. We may tremble with rage, but weep, never!

If that death is painful to us, and such it must be to the partisans of justice, our duty is other than tears.

Those hanged men call to us for vengeance, not for themselves, but for the great idea for which, intrepid and smiling, they met death.

They sacrificed themselves for us, for all those who work, who suffer, being convinced that their blood would hasten the emancipation of the labourers of the whole world from economical, political, and moral tyranny.

Are we to leave them unavenged? Are we to be so ungrateful towards those who sacrificed their lives for our emancipation?

Labourers! companions!

Listen to our words which come from our hearts, the words of those that work and live with hardship like you.

We have suffered, suffered immensely; shall we continue to suffer, remaining indifferent to questions regarding our emancipation, or running after phantoms invented by our masters, and which lead us far from our aim? Shall we continue to kiss the hand that strikes us?

Listen: between us and our masters there is an abyss. We work hard for our living, and they, the capitalists, with the fruit of our work, burst with indigestion and idleness.

But if the master robs us the State guarantees him the theft, and the Church,

making use of a chimerical paradise, condemns us to the hell of this world. The luxury of our masters becomes daily more attracting, but our misery becomes also more sad. Governments augment their strength, but our evils become hundredfold. And we, in the meantime, listen to the political mountebanks, passing from one delusion to another. But till when, oh, co-labourers, are we not to understand that politics can do nothing for us? because the Government, being the emanation of economical State, cannot be but the protection of citizens and rich people, which shot us in June 1848, in the bloody week in '71! And what would the Government be, if there were no poor and rich, if all were labourers? But that people may open their eyes, that those who preach peaceful solution of the social question may be exposed, the Government of the Republic of the United States has thrown before us four dead bodies! Oh! you want bread and liberty, you do not want oppressions of Government and capital any longer; well, wait, here is liberty, here is food!

And four of our most intelligent friends, the most active members of the great International Association, have been hanged.

Labourers! companions!

Tooth for tooth, eye for eye!

It is a question of life or death.

The fruit of our labour is stolen from us, our sentiments are condemned; and if we claim peacefully a less barbarous treatment, if we dare say the truth, a gaol or death is waiting for us. And against us are all the politicians, the Government, the citizens, the priests of the various religions. Then we are opposed to the State for liberty, to the citizens for Anarchy and Socialism; against the Church for science.

Labourers, our companions!

To-morrow we may be called for a violent struggle. Let each of us, for the benefit of humanity, do his duty. Let not a stone remain on a stone of citizenship.

No more Government, but free association of labourers;

No more property, but community of property;

No more marriage, but free love;

No more church or synagogue, but science;

No more native country, but human solidarity.

But let us not be deceived by the political syrens. He who dares assume the tone of command of superiority shall be our enemy.

Let us form our sovereignty ourselves, without intrusting the work to anybody. It is the only way to become free.

Let us set fire to the banks, to notarial archives, to register offices. Let us break the limits and marks of property. Let us be inexorable, or we shall be overpowered. Let us shut for a time our hearts to pity, that we may not repent to have had a moment of compassion.

Labourers! companions!

The future is ours; let us deserve it. We form the number, the strength; we have the right, let us use it.

Let us raise at last our heads, and let the new year be the year of vengeance for all the exhausted, for all labourers.

Down with the citizen!

Down with the State!

Hurrah for Socialism!

Hurrah for Anarchy!

Hurrah for the Social Revolution!

Tunis, November 11, 1888.

Labourers!

(Translation.)

Companions!

So far as human beings were informed, the 11th November passed unnoticed, because no act recorded the date; but it is not so at present that the Citizen-American-Republic has baptized with blood its power and strength, extinguishing in this same day five of the finest figures of the Anarchic Communism.

The rising youth, smelling the breath of the new days, stand up like giants before the Republican Executioner, and while telling him, blind, hired assassin

of a stupid citizenship, calls for vengeance, and challenge him in the name of science and reason.

This is the day in which five of our companions of Chicago fell as brave and Anarchic men.

Let our painful memorial arrive into the tomb of the hanged rebels, and the echo of a people who ask for Justice and Liberty reach the throne of the timorous Potentate, and announce to him his early fall.

Labourers!

The hands of the hired assassin remained for some days dirty with the blood of the courageous revolutionists; the country, highly impressed by the infamous intrigues of astute mercenaries, displayed all its sympathy in favour of the hanged men; and in all the parts of the civilized world, as soon as the news reached them, clubs were instituted in the name of those who fell for the triumph of the ideas of Communism and Anarchy; and many among the Republicans abandoned their files and joined us, in order to wage ravenous war to all sorts of organizations of citizens which claim the Law, the Police, and the Executioner.

Salutations to all the Revolutionists of the world, war to the Popes, to Emperors and Kings.

Hurrah to Anarchic Socialism!

Hurrah to Revolution!

(For the Circle Michele Bakounine),
The Committee.

Tunis, November 11, 1888.

No. 45.

The Law Officers of the Crown to the Marquis of Salisbury.—(Received November 22.)

My Lord,

Royal Courts of Justice, November 21, 1888.

WE were honoured with your Lordship's commands signified in Sir Julian Pauncefote's letter of the 27th ultimo, stating that he was directed by your Lordship to transmit to us the papers marked in the margin,* with reference to a Decree of the Bey of Tunis promulgated on the 15th September last, and purporting to place all public and private schools within the Regency under the inspection of French officials, and to make the use of the French language compulsory in such schools.

That the Italian Government held (see the late Count Robilant's note of the 24th September, 1888) that that Decree was not applicable to Italian subjects resident in the Regency, and that the grounds upon which they based their contention would be found concisely stated in that note.

That your Lordship was disposed to think that the Italian contention was correct, and that Her Majesty's Government was entitled to claim for British subjects resident in the Regency of Tunis a like immunity from the operation of that Decree.

That a Memorandum had been prepared showing the grounds on which, as was conceived, the Decree was, in so far as it purported to affect British subjects, beyond the powers of the Bey, and incapable of enforcement by the French Tribunals (see Sir J. Pauncefote's Memorandum of the 6th October, 1888).

That the French text of the Decree itself would be found, extracted from the "Journal Officiel Tunisien," of the 20th September last, at p. 4 of the inclosed Confidential Print.

That Sir Julian Pauncefote was also, with reference to the binding effect upon France, under the Franco-Tunisian Treaty of the 12th May, 1881, of the existing Treaty obligations of the Bey, to refer to a Report which was furnished on the 28th April, 1886, to the then Secretary of State by our predecessors in office (Law Officers' Report, No. 26, of 1886).

That Sir Julian Pauncefote was to request that we would take the papers transmitted with his letter into our consideration, and that we would favour your Lordship with our opinion as to whether Her Majesty's Government were entitled to contend that the Beylical Decree in question was inapplicable to British subjects; and

* Confidential Print, North Africa, No. 458; Memorandum by Sir J. Pauncefote, October 6, 1888; Law Officers, April 28, 1886; Protocol (Italy and Tunis), January 25, 1884; Treaty (Italy and Tunis), September 8, 1868; Order in Council, December 31, 1883; Franco-Tunisian Treaty, Parliamentary Print, "Tunis No. 6 (1888);" Correspondence re establishment of French Tribunals (Confidential Print).

that, should we be of that opinion, your Lordship would further be glad to be informed whether the views put forward in Sir Julian Pauncefote's Memorandum of the 6th October had our general concurrence as a statement of the grounds upon which the contention of Her Majesty's Government might properly be based.

We were also honoured with a Memorandum from Sir Julian Pauncefote, dated the 7th instant, stating that he was directed by your Lordship to transmit, for our consideration, a copy of a further despatch (and inclosures) from Her Majesty's Consul at Tunis.

We have taken the papers into our consideration, and, in obedience to your Lordship's commands, have the honour to report—

That, in our opinion, Her Majesty's Government are entitled to contend that the Decree of the Bey of Tunis of the 15th September is inapplicable to British subjects, and that we concur in Sir Julian Pauncefote's Memorandum as a statement of the grounds upon which the contention of Her Majesty's Government may properly be based.

We think, however, it might be well to omit the last sentence, as we doubt whether it is stated with sufficient precision or detail.

We have, &c.
(Signed) RICHARD E. WEBSTER.
EDWARD CLARKE.

No. 46.

Consul Ricketts to the Marquis of Salisbury.—(Received November 23.)

(No. 24. Confidential.)

My Lord,

Tunis, November 12, 1888.

I HAVE the honour to transmit herewith, inclosed to your Lordship, a Report on the state of this Regency.

I have, &c.
(Signed) G. T. RICKETTS.

Inclosure in No. 46.

Memorandum on the State of the Regency of Tunis.

Population.

(Confidential.)

THE population in this Regency is given at various figures, varying from 1,000,000 to 2,000,000. Owing, however, to the sparseness of the inhabitants in the interior, it is supposed that their number does not exceed 1,200,000. In the towns the inhabitants are given to various industries, among which are those of fabrics in silk, woollen, and cotton; in the villages their time is passed chiefly in agriculture. Included in the above are also numerous tribes of Bedouins, some settled and paying tax to their Sheikhs, others unsettled and independent.

Near Susa, Sfax, and Feriana these Bedouins are more or less settled, but south of Sfax from Gabes to the frontier of Tripoli there are many who are altogether independent, and who inhabit one spot only so long as they find water and supplies suitable to their wants. These latter are of a warlike nature, their numbers being, it is said, not far short of 200,000. They are said also to be able to bring into the field some 20,000 to 25,000 men, but if their numbers approach the figure above mentioned they ought, one would suppose, to be able to muster a force of at least 40,000. Herewith inclosed is an approximative statement of the names and number of the chief tribes of this territory.

Climate.

From the month of October to the end of March the temperature of this country is moderate, varying from 50° to 60° Fahrenheit. In May summer commences, June, July, August, and September marking the hot period; in the last three months the thermometer varies from 80° to 100°, this excessive heat being caused through the

small rainfall and the hot winds prevailing. The rainfall averages but 28 inches per annum, so that it is astonishing how any crops can be produced.

Commerce.

From the Table herewith annexed (No. 2), it will be observed that the exports of the whole of this country ranged between the years 1882 and 1887 inclusively from 29,822,160 to 35,919,480 piastres, and during the same time that the imports varied from 43,921,880 to 48,345,240 piastres; the exports during the year 1874 are given at 44,732,000 piastres and the imports at 40,560,000 piastres. Comparing these results, it would seem that the exports have fallen off and the imports increased; as, however, a certain portion of the production in the districts on the other side of Beja now pass via the Algiers railway to Bona, and are there exported for Marseilles, their total value will be somewhat greater, but this would not probably much exceed the sum mentioned as the exportation for 1874; we may therefore assume that the trade of this country is in a more or less stationary state; the total combined trade of this country is also only about 2,000,000*l.*, a very small amount for so large a tract of country. This trade, such as it is, is divided pretty evenly between England, Germany, France, and Italy, each of them sharing in it more or less equally.

Productions.

These consist principally of olive oil, wool, esparto fibre, sponge, and cereals.

Grain is produced in most parts of the Regency, but Sfax, Bizerta, and Beja are looked upon as the districts the most suitable to its cultivation. There are no statistics giving the quantity produced, though some idea may be formed of this from the exportation, a Table of which is herewith annexed: a reference to this will show that the yield varies considerably, in some years being little or nothing, and in others being as much as 162,000 quarters of wheat and 213,000 quarters of barley.

In a country where the average of the rainfall is only 28 inches per annum, where seven fruitful years are followed by several barren ones, where there is no means of irrigation through wells, the water near the surface being brackish, where the inhabitants are lazy and improvident, little can be expected as regards the development of agriculture.

Much was at first expected from the cultivation of the vine, but the vine crops suffering from the hot winds which prevail in July, August, and September, it is very doubtful whether or not the manufacture of wine will be attended with profit, and if this does not succeed, there is little left for the colonist to gain a livelihood. I mention these things to show that the power of exportation in this country is, after all, but limited. So it is with the importation. The Arab, generally speaking, wears garments made at home, and having no wants and caring little about luxuries, is not likely to form a large consumer in foreign markets; this is evident from the quantities of cotton goods which are imported, and the value of which, in 1887, was only 213,700*l.*, this being, moreover, a fair average.

Revenue.

The sums derived from revenue were as follows:—

							Piastres.
In 1884-85	..	..	..	..	..	..	33,000,000
1885-86	..	..	..	..	..	..	34,466,000
1886-87	..	..	..	..	..	..	34,127,000

giving an average on the last three years of 34,197,666 piastres, or 854,944*l.*

The principal sources from which this was collected were—

1. The poll tax, which, though reckoned at 17,000,000 piastres, yields but 7,000,000 piastres, or 175,000*l.*
2. Export and import dues, 3,816,000 piastres, or 97,150*l.*; and
3. Monopolies of salt, tobacco, and other things, on an average to 6,958,000 piastres, or 173,950*l.*

This is sufficient to defray at present the expenditure incurred on the debt at 4 per cent. of 5,700,000*l.*, the Post, General Administration, Public Works, and one battalion of native troops, the expense of the Army of Occupation, say,

15,000,000 piastres, being defrayed by the French Government; thus, if this latter sum were charged against the Tunisian revenue, there would be a constant deficit.

The poll tax and monopolies fall heavily on the people, and hence it would by no means become an easy matter to augment the ratio of these taxes, the chief sources of the revenue; nor would it be wise to increase the rate of importation dues, the consumer being poor and unable to pay much for the necessities of life.

From a commercial, social, and financial point of view, therefore, one cannot see that the occupation of this country is likely to be productive of much advantage to France.

We will now endeavour to review shortly the advantages and disadvantages likely to accrue to France from the occupation of this country in a military point of view.

Firstly, then, of the measures taken as regards maintaining the internal tranquillity of the Regency.

Communications.

A railway has been opened from Ghiardimona to Tunis, 190 kilom.; a line of railway has also been constructed from Souk Ahras, in Algiers, to Tebessa, near the Tunis frontier.

Another line is to run from Ain Beida, in Algiers, to Tebessa, 95 kilom.; thus troops will be able to be brought from Constantine and Bona, in Algiers, to Tebessa.

It is also intended to extend this line in the direction of Gafsa and Gabes. The country between Tunis and Susa, 130 kilom., is now under survey, a station-master having lately been sent to the latter place. The tramway from Susa to Khairwan, 60 kilom., is now handed over to the Bona-Guelma Company, who were the other day ordered to complete with as little delay as possible the material necessary for the mule carriage between Susa and Ouad Lia, a distance of 13 kilom., and where the inclines are too heavy for locomotives. In the course of time the communication between Tunis and Khairwan will be extended from the latter place to Sfax, 122 kilom., and from Sfax to Gabes, 145 kilom.; thus there will be two lines of operation opened by railway running in the direction of the Tripoli frontier; one, Tunis-Gabes, about 348 kilom.; the other, Tebessa-Gabes, 295 kilom.; the distance from Gabes via Kesser-Medina to Djemila, on the Turkish frontier, 170 kilom., more or less.

Roads.

In the vicinity of Susa the villagers have been employed for some time past in repairing the roads; these have also been macadamized in many places, but more especially for some few miles in the vicinity of the chief towns, such as Tunis, Sfax, Gabes, Bizerta, and Susa. There is, however, no great necessity for this kind of work in this country, as camels and carts can, I am told, without much difficulty, owing to the dryness of the climate, travel on the beaten tracks, especially in the south, in almost any direction.

It will therefore be noticed, owing to the limited extent of this territory, that in a very short period of time railway communication may be made to take the place of the present system of travelling, and that troops will be able to be dispatched from the north to the south in the course of a few hours.

Garrisons.

These are stationed as under:—

Head-quarters	..	..	..	Tunis.
Out-quarters	..	..	..	Goletta, Zaghouan, Manuba, Bizerta, Beja, Testur, Ain Drahani, Souk-el-Arba.
At Tunis	..	..	..	3 battalions 4 regiments Zouaves.
Zaghouan	..	..	..	½ battalion Zouaves.
Goletta	..	..	..	2 squadrons 4th Chasseurs d'Afrique.
Tobija, near Tunis	..	..	..	1 battery, field.
				1 company Engineers.
				1 company Train.
				Remount horses, 200.
Bizerta	..	..	..	1 company artillery, fortress.
Manuba	..	..	..	2 squadrons 4th Chasseurs.
				1 battery, field.
Souk-el-Arba	..	..	..	1 company Train.
				1 company gendarmes.

Head-quarters	..	..	..	Susa.
Out-quarters	..	..	..	Khairwan, Monastir, Hajib-el-Aun.
At Susa are	..	..	..	1,050 men 4th regiment Tirailleurs.
Khairwan	..	..	..	450 "
Monastir	..	..	..	150 "
Hajib-el-Aun	..	..	..	150 "
				1,800 men.

Head-quarters	..	..	..	Sfax.
Out-quarters	..	..	..	Gafsa, Feriana, Hafei, Tozer, El-Kef, Souk-el-Djeina.
At Sfax	..	..	..	600 Tirailleurs and 2 guns.
Gafsa	..	..	..	250 " and 150 cavalry.
Tozer	..	..	..	Bureau des Renseignements.
Kef	..	..	..	150 cavalry.
Souk-el-Djeina	..	..	..	150 "
				Total: 850 Tirailleurs, 300 Cavalry, 2 guns.

Head-quarters	..	..	..	Gabes.
At Gabes	..	..	..	220 Chasseurs à Pied.
				120 Tirailleurs.
				80 Sipahis.
				1 battery, field.
				6 guns, fortress.
				1 company Train.
Out-quarters—				
At Metreze	..	..	..	100 Tirailleurs.
Gasur Mettamai	..	..	..	100 Chasseurs à Pied.
				120 Tirailleurs.
				30 Sipahis.
Ras-el-Ouad	..	..	..	850 Chasseurs.
Zarghiz	..	..	..	120 Tirailleurs.
				30 Sipahis.
Tatahouin	..	..	..	125 Chasseurs.

Also at Donirat and Bir-el-Ahmar are outposts.

Sidi Ralbaba 1 compagnie de discipline.

Total: 1,295 Chasseurs à Pied; 600 Tirailleurs; 6 guns, field; 6 fortress; 1 squadron cavalry.

Total force in Regency would therefore appear to be—

INFANTRY.

Tunis	..	..	..	..	4th Regiment Zouaves	..	2,400
Susa	..	..	..	..	4th Regiment of Tirailleurs	..	1,800
Sfax	..	..	..	..	4th " "	..	850
Gabes	..	..	..	..	4th " "	..	650
					2 battalions Chasseurs à Pied	..	1,295
					Total Infantry	..	6,925

Viz: 4th Regiment of Zouaves, 4th Regiment of Tirailleurs, 2 battalions Chasseurs à Pied (37th and 39th); in all, 10 battalions.

ARTILLERY.

Tunis	..	..	..	..	2	field batteries.
Gabes	..	..	..	..	1	field battery.
Sfax	..	..	..	..	$\frac{1}{2}$	„
					<hr/>	
Total	..	..	..	..	$3\frac{1}{2}$	field batteries = 20 field guns,
					<hr/>	
Fortress—						
Gabes	..	..	..	..	6	guns.
Bizerta	..	..	..	..	6	„
					<hr/>	
Total	..	..	..	..	12	guns.

CAVALRY.

Tunis	..	..	..	..	4 squadrons.
Gabes	..	..	..	..	1 squadron.
Sfax	..	..	..	..	3 squadrons.
Total	..	..	..	..	8 squadrons.

All accounts received from the outposts show that nothing has been as yet attempted in the construction of forts, nor as far as one can learn have any extra-

ordinary military supplies been imported, with the exception of the machinery for the construction of torpedoes at Bizerta.

Recruitment.

In the district of Susa some 700 natives are annually recruited for the Tirailleur and Sipahi Regiments, these containing about 15 per cent. French soldiers, 10 per cent. Algerian, and remainder all native.

Since 1883, 4,410 men have been recruited for this purpose; their service is for two years only, after which they pass into the reserve. This number, it must be borne in mind, is not great at present, but it might easily be increased.

Transport.

The total number of animals existing in this Regency is computed to be:—

Camels	..	..	..	..	..	..	..	101,700
Horses	..	..	..	..	..	..	..	56,000
Mules	..	..	..	..	..	..	..	6,500
Oxen and cows	..	..	..	..	..	..	..	339,000
Sheep	..	..	..	..	..	..	..	1,639,000
Goats	..	..	..	..	..	..	..	89,000

These figures may be depended upon as *being correct*: the Reports hitherto published on this subject are altogether exaggerated.

In the Table annexed will be found a list also of the animals now existing in the chief districts.

The number of oxen, sheep, and goats shows the quantity of live stock obtainable in the shape of provisions; both cattle and sheep are now dying in great numbers owing to want of pasture.

The number of horses herein given would furnish carriage for several corps d'armée, supposing we allow 7,000 to each corps supplied with carts and wagons.

The best sort of transport in this country is, however, that afforded by the camel; here again, allowing, say, 12,000 camels for the corps, there is carriage sufficient for a large army.

From what has been herein stated, it will be noticed that this country is divided into four military districts: Tunis, which embraces the northern portion; Susa and Sfax, the central; and Gabes, the southern: that the principal places are occupied, and that the force is much scattered, this being a source of weakness. At one time some trouble was experienced from the Hamema and Oudgrenuma tribes, but these for some time past have shown no signs of restlessness. This may, perhaps, in a great measure, be attributed to the policy pursued by General Allegro, who has gained over some of the chief Sheikhs.

Secondly. As regards the means of resisting an attack from without. An invasion of this country may be undertaken by sea or land; if by the former, the advantages would be in favour of the defensive force, as there are few places on the coast where a landing could be effected. At Bizerta the position is especially suited to the defensive, the entrance being narrow, and the hills each side easily fortified. A reference to the Admiralty Charts published will show the fitness of this place for this purpose.

At Goletta a landing could be carried out without much difficulty, but being in the vicinity of Tunis, it would be opposed by reinforcements from that place and Algiers.

Sfax and Susa are open roadsteads, so is Gabes, the water being very shallow in the vicinity of each of these places. But these advantages would be considerably lessened in the event of an invasion from the side of Tripoli, as such a movement would most probably be supported by a rebellion of the frontier tribes. Under such circumstances, the troops in Algeria would be required in Tunis, and another corps would have to be sent from France to Algiers.

Supposing France to be engaged in a war in Europe, she would then be driven either to retire from this country, or to lose the services of two corps d'armée, or even more, in Europe.

Thirdly. It must be borne in mind that the difficulties here spoken of are but temporary, and are only to be feared so long as this country, not being annexed, remains unsettled.

The tribes, on the other hand, once subdued, a portion of the inhabitants having been accustomed to military service—and this is being gradually arrived at through the form of recruitment already mentioned—the French Government will in the space of a few years be in a position to place on foot a large native force.

On the lines Tebessa-Gafsa-Gabes and Tunis-Gabes being laid down with rails, a concentration could be effected in the course of twenty-four hours at Gabes, which is only distant from Djemila, on the Turkish frontier, 154 kilom. An advance could then be made simultaneously by various routes on Tripoli. Nor would any pretext be wanting for such an act, disturbances being, as in the case of the Kroumirs, able to be fomented at the shortest notice among the frontier tribes. In view of this, it is evident that the Turkish Government ought to neglect no measures which may be conducive to its acquiring an influence over the tribes in the vicinity of Tripoli, and, if possible, a cordon of irregulars should be organized for frontier service, especially between Djemila and Nalut, and might not this be administered in a manner more or less similar to that adopted by the Russian Government among the Cossacks of the Terek and Kuban? At the same time, a considerable force will have to be maintained near Tripoli, for if this land-barrier be once broken down, it will not be long before the whole of the territory between Tripoli and Egypt will fall into the hands of the French.

Further, it is certain, should this country become annexed, that Bizerta will be converted into a formidable naval arsenal. At present, in the entrance to the Bay of Bizerta, which has a superficies of 10·7 miles, and an average depth of 5 to 6 fathoms, there is but 12 feet of water. This, however, could be easily deepened so as to admit vessels of large draught. A port is also about to be constructed in the Bay of Tunis, 10 miles from the seaport of Goletta. Situated as these harbours are in the centre of the Mediterranean Sea, and inaccessible when defended by torpedoes to the approach of any vessel of war, once in the possession of France, they will furnish a basis from which hostile operations may be carried on with impunity.

From the ports of Bizerta, Goletta, and Tunis the passage of our vessels on their road to and from Gibraltar and Suez may be easily intercepted; from these, too, an attack may at any moment be directed against the fortress of Malta, or against Cagliari, Civita Vecchia, Castellamare, and the ports of Sicily; in short, the annexation of this country by France would be a constant source of danger to Italy, England, and Turkey.

The question then arises, does it appear that there is at present any intention on the part of the French Government of withdrawing its Army of Occupation?

Some are of opinion that as this is very costly, France would be only too glad to get rid of such a burden; but it must not be forgotten that the same troops which are serving in Tunis if not there would be employed on service in France, and, consequently, in reality there is no extra expenditure incurred. When this is reflected upon, coupled with the facts following, that the French "Journal de Tunis," the organ of the French authorities, is daily publishing articles filled with abuse against Italians and other foreigners; that several Maltese employed by the French authorities have assumed French nationality through the fear of being turned out of their employ; that an attempt has lately been made to set aside the rights and privileges derived from the Capitulations; that the French occupation is now styled a Protectorate; and that, though the Local Government is perfectly able to guarantee the maintenance of order in accordance with the spirit of Article II of the Treaty of Kasr-Said of 1881 (the disorder which existed at the time of the signing of that Treaty having been created by the entrance of the French forces into this country), this occupation has not yet ceased, one is led to the conclusion that there is no intention of retiring from this country, and that, sooner or later, if not prevented by some of those Powers who signed the Treaties of Paris and Berlin, it will be formally annexed by France.

Tunis, November 12, 1888.

(Signed) G. T. RICKETTS.

EXPORTS from Regency.

Year.				Wheat.	Barley.
				Quarters.	Quarters.
1880	..	..	..	42,800	43,000
1881	..	..	..	22,000	26,000
1882	..	..	..	4,000	..
1883	..	..	..	..	..
1884	..	..	..	11,500	21,340
1885	..	..	..	94,000	92,600
1886	..	..	..	110,000	128,400
1887	..	..	..	162,000	213,000
1874	..	..	..	149,000	183,000

Crops of 1888 said to be very bad.

EXPORTS.				IMPORTS.			
Year.				Year.			
				Piastres.			
1882	..	..	..	31,853,480	1882	..	..
1883	..	..	..	35,622,680	1883	..	..
1884	..	..	..	29,822,160	1884	..	..
1885	..	..	..	35,317,840	1885	..	..
1886	..	..	..	31,066,360	1886	..	..
1887	..	..	..	35,919,480	1887	..	..
1874	..	..	..	44,732,000	1874	..	..

District.	Names of Tribes.				Where situated.	Approximate Numbers.
Gabes	Hamema	..	..	..	Extends south of Sfax to Gabes	70,000
	Benizid	..	..	..	West of Gabes	50,000
	Hazem	..	..	..	South of Gabes	10,000
	Ouegremma	..	..	..	From Gabes to frontier of Tripoli	10,000
Susa	Oulad Saïd	..	..	..	Lake Kelbia	5,000
	Souassi	..	..	..	Lake El-Hani	18,000
	Oulad Zlass	..	..	..	Lake Cherichta	30,000
	Gouzine Zlass	..	..	..
	Sendassen Zlass	..	..	..
Sfax	Agarba	..	..	..	..	2,300
	Meletet	..	..	..	North-east of Sfax	13,300
	Naffeta	..	..	..	Near Aarad	3,000
	El Goussen	..	..	..	..	1,500
	Belata	..	..	..	..	1,000
	Sidi Ben Hassan	..	..	..	..	8,000
	Cheata	..	..	..	..	2,000
	Maata	..	..	..	..	500
	Petnassa	..	..	..	North-west of Sfax	8,000
	Fargalla	..	..	..	..	1,000
	Manson, S. W.	..	..	..	..	1,000
	Frashish	..	..	..	West of Sfax	13,000
Feriarra	Rhadouane	..	..	..	South-east of Sfax	1,000
	Selema	..	..	..	..	1,000
	Bu Saad	..	..	..	..	10,000
	Ayaicha	..	..	..	..	10,000
	Mamur	..	..	..	South of Sfax	2,000
	Yaya	..	..	..	..	2,000

Districts.	Camels.	Horses.	Mules.	Oxen and Cows.	Sheep.
Gabes	10,800	3,000	60	1,200	75,000
Gafsa	13,400	1,150	200	..	148,000
Kef	7,000	5,700	1,300	19,000	155,000
Kairwan	10,000	2,700	400	14,000	210,000
Susa	12,500	2,500	400	16,000	112,000
Tunis	7,900	12,500	1,200	146,000	270,000

In addition to the above there are several other districts, but these are the most important.

No. 47.

Consul Ricketts to the Marquis of Salisbury.—(Received December 4.)

(No. 25.)

My Lord,

Tunis, November 27, 1888.

I HAVE the honour to acknowledge the receipt of a despatch No. 16 in reference to a Decree of the President of the French Republic, dated the 17th July, withdrawing jurisdiction in matters of land from the French Tribunals. The substance of this despatch has been communicated by me to the Resident; on a reply being received it will be duly transmitted to your Lordship.

I have, &c.

(Signed) G. T. RICKETTS.

No. 48.

Consul Ricketts to the Marquis of Salisbury.—(Received December 4.)

(No. 26. Confidential.)

My Lord,

Tunis, November 27, 1888.

I HAVE this day been informed by my Italian colleague that Dr. Spezzafogo, the physician of His Highness Tayib Bey, received a letter from his Excellency Cardinal Lavignerie, now at Rome, to this effect: that it was much to be regretted there should be such a state of enmity between France and Italy, that it was necessary for the sake of peace to put an end to this state of things, and that he considered the best means of arriving at this was through the Italians taking possession of Tripoli, which he would endeavour to obtain for them on his return to Paris; in short, from the style of this letter, it is evident that his Excellency the Cardinal is not altogether occupied with the affairs of the Church. Dr. Spezzafogo was at the same time requested to show this letter to the Italian Consul, and a copy thereof has already been sent by M. Berio to his Government.

M. Berio assured me that Italy had no designs whatever on Tripoli; he said the possession of that country would be to them a continual burden, and would not free them from the danger which they apprehended of the too close proximity of the French if established at Bizerta.

I have, &c.

(Signed) G. T. RICKETTS.

No. 49.

Consul Ricketts to the Marquis of Salisbury.—(Received December 7.)

(No. 27.)

My Lord,

Tunis, December 1, 1888.

I HAVE the honour to transmit herewith inclosed a Decree of the 27th November, published by the order of His Highness the Bey of Tunis, giving powers to the French Tribunals to hear and decide on suits brought by private persons against the Administration.

The Consular jurisdiction was, I believe, alone abandoned under the Order in Council of December 1883, and, consequently, as the matters spoken of in this Decree did not then form a part of the Consular jurisdiction, but were treated diplomatically,

they cannot be said to have been transferred to the French Tribunals. The exercise, therefore, of such powers as those mentioned in this Decree by the French Tribunals (powers which they do not possess even by French Law, the French Courts of First Instance being, I am given to understand, incompetent to judge matters concerning the Administration), would seem to be contrary to the intention of the Order in Council regulating this subject. It should also be borne in mind that, if this be permitted, these privileges derived from the Capitulations will be abolished, and British subjects will find it difficult, if not impossible, to obtain redress for their grievances, in that the officers of the Administration, knowing they are under the protection of the Courts, where delays are interminable, and the procedure expensive, will be more prone than ever to commit abuses when a claim is brought against the Administration.

According to Article 5, it would moreover appear that there is to be no recourse to the Court of Cassation. Consequently, on a Judgment being given against a foreign subject, there would be no remedy through the Court of Cassation, the appeal being held final. On the other hand, however, in the event of Judgment being given against the Administration, this latter would have by this Decree the right to refer to the Court of Cassation.

The publication of this Decree by His Highness the Bey would also appear to be contrary to the spirit and letter of the Italian Protocol, which says "that the new jurisdiction can only be modified with the explicit approbation of the Government of the King." In other words, a change in the jurisdiction could only be allowed if carried out by the French Government in concert with that of the King of Italy; a wise reservation, in that, if the Bey be once permitted under the advice of others to institute any changes he may think fitting, there would soon be an end of all the arrangements entered into in 1883 and 1884, and the privileges and immunities granted by the Capitulations and Treaties would ere long cease to exist.

I have, &c.
(Signed) G. T. RICKETTS.

Inclosure in No. 49.

Extract from the "Journal Officiel Tunisien" of November 29, 1888.

Décret du 23 Rabia-el-Aoual, 1306 (27 Novembre, 1888).

Louanges à Dieu.

VU le Décret du 10 Djoumadi-el-Tani, 1300 (18 Avril, 1883), portant promulgation dans la Régence de la Loi du 27 Mars, 1883, sur l'organisation de la juridiction Française en Tunisie,

Vu les Décrets du 27 Djoumadi-el-Tani, 1300 (5 Mai, 1883), et du 9 Chaoual, 1301 (31 Juillet, 1884), étendant la juridiction Française en Tunisie,

Sur le rapport de notre Premier Ministre,

Nous avons pris le Décret suivant:—

Article 1^{er}. Sont soumises aux juridictions civiles instituées dans la Régence, dans la limite de la compétence attribuée à chacune d'elles, toutes les instances tendant à faire déclarer l'Administration débitrice, soit à raison de l'inexécution des marchés conclus par elle, soit à raison des travaux qu'elle a ordonnés, soit à raison de tout acte de sa part ayant, sans droit, porté préjudice à autrui.

Doivent être portées devant les mêmes juridictions les actions intentées par les autorités administratives contre les particuliers.

Art. 2. Les affaires sont toujours réputées sommaires, et instruites comme telles devant les Tribunaux et la Cour d'Appel. Toutefois, le ministère des défenseurs n'est pas obligatoire. Les parties intéressées peuvent présenter elles-mêmes leurs observations, ou les adresser sous forme de Mémoires signifiés au greffe. Dans le cas où les parties seraient représentées par un mandataire, ce mandataire ne pourra être choisi que parmi les défenseurs ou les avocats. Toutefois, les Administrations publiques seront valablement représentées par un de leurs fonctionnaires.

Art. 3. Il est interdit aux juridictions civiles d'ordonner, soit accessoirement à l'une des demandes ci-dessus, soit principalement, toutes mesures dont l'effet serait d'entraver l'action de l'Administration, soit en portant obstacle à l'exécution des

règlements légalement pris par elle, soit en enjoignant l'exécution ou la discontinuation de travaux publics, ou en modifiant l'étendue et le mode d'application.

Art. 4. Il est également interdit aux juridictions civiles de connaître de toutes demandes tendant à faire annuler un Acte de l'Administration, sauf le droit pour la partie intéressée de poursuivre par la voie gracieuse la réformation de l'Acte qui lui fait grief.

Art. 5. Les décisions rendues en matière administrative seront toujours susceptibles d'appel. L'appel est suspensif. La juridiction saisie de l'appel statue en dernier ressort.

Aucun recours en cassation ne peut avoir lieu, si ce n'est pour excès de pouvoir résultant de la violation des Articles 3 et 4 ci-dessus. Dans ce cas, le recours peut être formé directement contre toute décision en premier ou dernier ressort, soit d'office, par le Ministère Public, soit, à la requête du Résident-Général, par le Ministre de la Justice. Ce recours est suspensif.

L'annulation prononcée par la Cour de Cassation est opposable à toutes les parties en cause.

Vu pour promulgation et mise à exécution,
Tunis, le 28 Novembre, 1888.

Le Ministre Plénipotentiaire, Résident-Général de la
République Française,
(Signé) J. MASSICAULT.

No. 50.

Memorandum communicated by M. Waddington, December 11, 1888.

LE Décret du Président de la République du 17 Juillet, 1888, a soulevé, de la part du Gouvernement Britannique, certaines objections qui sont exposées dans une lettre adressée le 24 Novembre, 1888, au Résident-Général de France par le Consul d'Angleterre à Tunis. D'après cette communication le Décret dont il s'agit aurait pour effet d'enlever, en certains cas, aux juridictions Françaises, la connaissance des contestations en matière immobilière concernant des sujets Anglais et de la remettre à un Tribunal Tunisien, dit "Tribunal Mixte." Or, le Gouvernement Britannique n'a renoncé à sa juridiction en Tunisie qu'à l'égard des affaires et procès ressortissant aux juridictions Françaises. Il se voit donc forcé de revenir, pour le jugement des contestations immobilières, à la procédure réglée par les Traités entre l'Angleterre et la Tunisie.

Les objections du Gouvernement Britannique proviennent d'une erreur sur la portée et même sur l'objet du Décret du 17 Juillet, 1888. Un exposé succinct de la situation juridique de la propriété immobilière en Tunisie dissipera aisément le malentendu.

Jusqu'en 1863, les Anglais n'étaient pas autorisés à posséder des immeubles dans la Régence. Dès 1857 le Bey s'était bien engagé à leur accorder ce droit, et il avait renouvelé sa promesse en 1861, mais c'est seulement le Traité du 10 Octobre, 1863, qui, en fait, le leur a conféré. En vertu de ce Traité, confirmé par celui du 19 Juillet, 1875, les Anglais peuvent être propriétaires d'immeubles en Tunisie; toutefois, leurs droits immobiliers sont régis par la loi Musulmane, et les contestations auxquelles ils donnent lieu sont du ressort des juridictions Tunisiennes, sous la réserve:—

1. Que les citations des sujets Anglais devant ces juridictions seront signifiées par l'intermédiaire du Consul d'Angleterre.

2. Que celui-ci pourra assister aux débats du procès; et

3. Qu'il sera seul chargé de l'exécution des Jugements Tunisiens rendus contre ses nationaux.

Il est convenu, en outre, que si les contestations immobilières sont élevées entre Anglais exclusivement, il leur est loisible de les porter devant le Tribunal Consulaire Britannique.

Telle est la situation que le Protectorat Français a trouvé en 1881, en ce qui regarde non seulement les Anglais, mais les Européens de toute nationalité. Cette situation a été tout d'abord quelque peu modifiée par la suppression des juridictions Consulaires fonctionnant en Tunisie au profit des juridictions ordinaires Françaises. La renonciation du Gouvernement Britannique, à dater du 1^{er} Janvier, 1884, à sa juridiction Consulaire, n'a pas eu cependant, et ne pouvait avoir pour conséquence de

changer la législation applicable aux immeubles, ni la compétence respective des juridictions Tunisiennes et Européenne en matière immobilière; elle a eu simplement pour effet de transmettre aux Tribunaux Français les pouvoirs judiciaires du Consul Britannique en cette matière comme en toute autre.

Le Consul reste chargé, comme par le passé, de la protection de ses nationaux auprès des autorités Tunisiennes; par suite, les citations à comparaître devant les juridictions Beylicales doivent toujours être signifiées par son intermédiaire, et il continue à jouir de la faculté d'assister aux débats du procès. Par contre, il appartient désormais aux autorités judiciaires Françaises d'exécuter les Jugements rendus par les juridictions Tunisiennes contre des Anglais, et les contestations immobilières, dans lesquelles des Européens seuls sont en cause, sont déferées aux Tribunaux Français qui statuent conformément à la loi Musulmane. Telles sont les règles de compétence et de procédure résultant pour les Anglais du Traité du 10 Octobre, 1863, combiné avec l'Ordre en Conseil du 31 Décembre, 1883.

Le Gouvernement de la République n'a pas pensé que ces règles offrissent aux Européens des garanties suffisantes, et il a cru de son devoir d'user de l'influence qu'il avait acquise sur le Gouvernement Beylical pour en obtenir que leurs droits immobiliers fussent régis par une législation plus précise et plus perfectionnée que la loi Musulmane, et aussi que les contestations auxquelles ces droits pourraient donner lieu ressortissent uniquement, pour le jugement comme pour l'exécution, aux juridictions Françaises. Par Décret du 31 Juillet, 1884, le Bey s'engage à accomplir cette double réforme. Les multiples et difficiles problèmes qu'elle soulevait ont été étudiés et résolus par une Commission composée des hommes les plus compétents de la Régence, sans distinction de nationalité. La Loi de 1^{er} Juillet, 1885, est le fruit de leurs travaux. Cette Loi a emprunté au Code Civil Français, sauf des modifications de détail, la réglementation de la propriété immobilière et de ses démembrements, et aux législations Australiennes le système de la publicité absolue des droits immobiliers. Se conformant en outre à une autre disposition des *Lois Australiennes*,* elle laisse chacun libre de soumettre ses propriétés à la nouvelle Loi, en les immatriculant, ou de les laisser sous l'empire du régime ancien et de droit commun. Les contestations portant sur des propriétés immatriculées ressortissent uniquement aux juridictions Françaises; celles relatives à des propriétés non immatriculées continuent à être soumises aux juridictions Tunisiennes dans les conditions fixées par le Traité du 10 Octobre, 1863, à moins qu'intéressant exclusivement des Européens, elles puissent être portées devant les Tribunaux Français statuant d'après la loi Musulmane.

Le Tribunal Mixte qui soulève les objections du Gouvernement Britannique, est l'autorité chargée de procéder aux immatriculations; il ne constitue pas, comme semble le croire le Consul d'Angleterre à Tunis, une juridiction proprement dit, du moins à l'égard des Anglais. Les attributions d'ordre purement administratif et nullement judiciaire, ressemblent à celles qui sont conférées par les lois Australiennes au Registrar-General assisté du maître des titres, quoiqu'elles soient moins étendues. Le Tribunal Mixte conduit les procédures d'immatriculation. Si des oppositions à l'immatriculation sont soulevées par des Anglais, il appartient à ceux-ci de les porter devant les juridictions Françaises; en ce cas le Tribunal Mixte suspend la procédure et attend la décision judiciaire. Les pouvoirs contentieux ne s'imposent qu'aux indigènes.

En résumé, les propriétés immobilières des Anglais en Tunisie peuvent, à leur gré, être placées dans deux situations différentes: ou elles sont immatriculées et elles jouissent de toutes les garanties qu'offrent la Loi du 1^{er} Juillet, 1886, et la *juridiction Française*; ou elles ne le sont pas, et, dans ce cas, le Consul d'Angleterre dispose, pour les protéger, de tous les droits qui lui ont été conférés par le Traité du 10 Octobre, 1863, combiné avec l'Ordre en Conseil du 31 Décembre, 1883. C'est bien à tort que le Gouvernement Britannique croit avoir besoin de revendiquer aujourd'hui l'exercice de ces droits pour son Consul à Tunis; il n'en a jamais été privé.

La portée du Décret du Président de la République du 17 Juillet, 1888, semble avoir été absolument méconnue par le Gouvernement Britannique. Loin de retirer aux juridictions Françaises la compétence en matière immobilière, il la leur confère expressément sur les propriétés immatriculées par son Article I^{er} et son Article II, en attribuant une valeur absolue aux énonciations des titres de propriétés, étend[†] à la Tunisie et consacre le principe fondamental et bienfaisant des législations immobilières Australiennes.

* "Real Property Act, 1861," South Australia.

† Sic.

The Marquis of Salisbury to M. Waddington.

Foreign Office, December 12, 1888.

Dear M. Waddington,

I HAVE examined the papers in this Office with reference to the recent Decree in Tunis as to what Tribunal has jurisdiction in the question of real estate, and the action taken by Her Majesty's Government thereupon.

I find that Consul Ricketts was directed to inform the French Resident in Tunis that England must of course revert to her Treaty rights in the question of real property until the French Courts were invested *de novo* with the jurisdiction over them, those Tribunals having by the Decree just issued been deprived of their jurisdiction; and I find that Consul Ricketts, in reply, under date of the 27th November, informed me that the substance of that despatch had been communicated by him to the Resident. No direction was given by me for Consul Ricketts to state his case in concert with, or at the same time as, the Italian Consul, nor does he report to me that such was the case. If, therefore, the simultaneous presentation has actually taken place, it must have been an accident.

Believe me, &c.
(Signed) SALISBURY.

Consul Ricketts to the Marquis of Salisbury.—(Received December 13.)

(No. 29. Confidential.)

Tunis, December 5, 1888.

My Lord,

A FEW days ago the Resident asked me to breakfast. M. Benoît, the Secretary and legal adviser, was also there.

After breakfast the Resident said: "Well, Consul, you appear to be coming into conflict with us." I said I was not aware of it. He then continued: "We are going to answer your note about the Decree of the 17th July, and you will find that it will be upset." He then turned to M. Benoît, his Secretary, and asked him to explain matters. M. Benoît said that British subjects can still apply to the French Tribunals in land cases by the new Decree published.

I remarked: "I suppose you allude to the Decree of the 6th November, where this right is admitted under the condition that the claim is made before going into the Mixed Tribunal, two months only being admitted as the time for bringing a claim prior to registration; but what happens if a Maltese subject, being at Malta, returns after three or four months, and finds his land registered in some other person's name? He has no appeal by your Decree of the 17th July; he loses his property." The Resident replied: "It is true," and, turning to M. Benoît, he observed: "A fine advocate you are."

I then said: "But this is not the only point in which there is a difference. The chief thing is that you have withdrawn the jurisdiction of your own Court, which stood in the place of the Consul, and transferred our subjects to the jurisdiction of a Mixed Court, half Arab, half French." To this he answered: "Oh! that makes no difference; is it not better than the 'Sharâa'?" I said: "The 'Sharâa' is by Treaty subject to supervision, from which there is an appeal; from this new Court there is no appeal. Her Majesty's Government would not like to see British subjects placed at its mercy. How, also, is it possible for any ordinary person to understand your Law on registration, which contains some 380 paragraphs?" The Resident seemed amused, and M. Benoît said to him: "Well, what becomes of your Law on registration—it tumbles to pieces."

After some further remarks, they said they would see what could be done to rectify this state of things.

Colonel Playfair, who had just arrived from Algiers, was present at this conversation.

I have, &c.
(Signed) G. T. RICKETTS.

Extract from the "Official Journal" of Tunis of November 8, 1888.

Loi du 2 Rabia-el-Aoual, 1306 (6 Novembre, 1888).

Louanges à Dieu.

VU la Loi du 19 Ramadan, 1302 (1^{er} Juillet, 1885), modifié par la Loi du 12 Chaban, 1303 (16 Mai, 1886) sur la propriété foncière,
Sur le rapport de notre Ministre,

Nous avons Décrété ce qui suit :

Article Unique.—Les Articles 22, 26, 36, et 295 de la Loi du 19 Ramadan, 1302 (1^{er} Juillet, 1885), modifié par la Loi du 12 Chaban, 1303 (16 Mai, 1886) sur la propriété foncière, sont abrogés et remplacés par les dispositions suivantes :—

Article 22. L'immatriculation est facultative.

Peuvent seuls requérir l'immatriculation :—

1. Le propriétaire et le co-propriétaire ;

2. L'enzeliste et le co-enzeliste ;

3. Les détenteurs des droits réels énumérés dans l'Article 13 de la présente Loi, autres que la propriété et l'enzel, ceux-ci avec le consentement du propriétaire, ou du co-propriétaire, ou de l'enzeliste ou du co-enzeliste pour les immeubles tenus à enzel.

Les frais de l'immatriculation sont supportés par celui qui l'a requise.

Article 26. Dans les deux mois qui suivront cette insertion, le Juge de Paix, ou son délégué, après avoir prévenu le Caïd, procédera au bornage provisoire de l'immeuble, conformément aux limites indiquées par la déclaration, en présence du requérant l'immatriculation ou lui dûment appelé, sans s'arrêter aux protestations qui pourraient se produire, mais qui seront toujours consignées au procès-verbal. Il pourra requérir, s'il y a lieu, l'assistance de la force publique.

La date fixée pour cette opération sera portée à la connaissance du public au moins vingt jours à l'avance et le procès-verbal de bornage constatera les diligences faites à cet effet.

La date de la clôture sera publiée sommairement au "Journal Officiel" Arabe et Français.

Article 36. Dans le cas où une opposition à une immatriculation serait formée par un justiciable des Tribunaux Français, il sera loisible à ce dernier de la porter devant la juridiction Française, pourvu qu'il le fasse avant toute défense au fond devant le Tribunal Mixte, et pourvu que l'instance soit fondée sur un droit existant entre ses mains avant l'insertion au "Journal Officiel" de la déclaration d'immatriculation.

Auquel cas le Tribunal Mixte sursoiera à statuer sur l'admissibilité de la demande à fin d'immatriculation, jusqu'après décision, passée en force de chose jugée, du Tribunal compétent.

Article 295. La vente forcée des immeubles ne peut être poursuivie qu'en vertu d'un titre exécutoire pour une dette certaine et liquide. Si la dette est en espèces non liquidée, la poursuite est valable ; mais l'adjudication ne pourra être faite qu'après la liquidation.

Vu pour promulgation et mise à exécution,

Tunis, le 7 Novembre, 1888.

Le Ministre Plénipotentiaire, Résident-Général
de la République Française,
(Signé) J. MASSICAULT.

No. 53.

M. Catalani to the Marquis of Salisbury.—(Received December 19.)

(Translation.)
My Lord,

Italian Embassy, 20, Grosvenor Square,
December 16, 1888.

I COMMUNICATED to my Government the letter your Excellency did me the honour to address to me on the 17th ultimo, in which you informed me that you had

instructed the English Consul in Tunis to state to the French Resident that, if competence in matters of real property, taken from the French Courts by a recent Decree of the President of the Republic, were not restored to them, England would avail herself of her right to re-establish her own Consular jurisdiction in the Regency.

His Excellency the Cavaliere Crispi charges me to offer to your Excellency his best thanks for this communication, and to transmit to you the accompanying translation of a despatch sent by him on the 5th instant on the same subject to His Majesty's Consul-General in Tunis.

I have, at the same time, the honour to ask your Excellency, should you think fit so to do, to inform me of the further course of this matter, so that the two Governments may continue to act together on a question which is of equal interest to both.

I have, &c.

(Signed) T. CATALANI.

Inclosure in No. 53.

M. Crispi to M. Berio.

(Traduction.)

(Télégraphique.)

Rome, le 5 Décembre, 1888.

LE Chargé d'Affaires du Roi à Londres m'a informé que Lord Salisbury a donné au Consul Britannique à Tunis l'instruction de déclarer au Résident Français ce qui suit : "Par Ordonnance Royale en date du 31 Décembre, 1883, la juridiction Consulaire Britannique a été supprimée pour les matières et les causes sujettes à la juridiction des Tribunaux Français. Or, ces Tribunaux ayant été privés, par Décret Présidentiel du 26 Juillet dernier, de la juridiction exercée par eux dans les causes immobilières, l'Angleterre doit naturellement reprendre ses propres droits conventionnels jusqu'à ce que les Tribunaux Français ne soient nouvellement investis de la juridiction dont il s'agit, à défaut de quoi les sujets Britanniques seraient soumis, pour les causes susénoncées, à la juridiction absolue et exclusive des Tribunaux Indigènes."

A la vérité, il ne paraît pas évident que le Décret précité du Président de la République Française, ayant en vue de dissiper un doute élevé à la suite de l'institution du Tribunal Mixte pour l'immatriculation des immeubles, ait soustrait aux Tribunaux Français de la Régence la juridiction sur les causes immobilières ; ce qui est certain, toutefois, c'est qu'en vertu de ce Décret, on a donné une nouvelle force au principe de la souveraineté absolue au Tribunal Mixte, principe qui résultait déjà de l'irrévocabilité de ses décisions établie par l'Article 37 de la Loi du 12 Juillet, 1885, et qui devient aujourd'hui encore plus accentué par l'obligation, imposée aux Tribunaux Français, d'accepter aveuglément, comme unique point de départ de leurs sentences dans les questions de propriété, les titres formés en base de ces décisions du Tribunal Mixte.

Or, ce Tribunal, créé par le Bey avec la Loi précitée du 12 Juillet, 1885, étant une Magistrature indigène, la souveraineté absolue qui lui est ainsi attribuée est de tous points contraire au Traité du 8 Septembre, 1868, en vigueur entre l'Italie et la Tunisie, où il est clairement stipulé, à l'Article XXII, qu'en cas de procès portant un des immeubles, entre un Italien et un indigène, l'autorité judiciaire locale sera, il est vrai, compétente, mais que le perdant conservera toujours le droit d'appel à la Magistrature compétente et jusqu'au Tribunal Suprême du Bey.

Il est vrai que par l'Article 36 de la Loi susmentionnée, Article non dérogé par le Décret Présidentiel, on paraît avoir voulu tenir compte de l'autre garantie également stipulée dans le Traité de 1868 (Article précité) du renvoi facultatif du différend au Tribunal Consulaire, en ce qu'il est donné faculté à l'adversaire de décliner la compétence du Tribunal Mixte et de faire porter le procès par-devant les Tribunaux Français (succédés aujourd'hui aux Consulaires) lorsqu'il s'agit de personnes soumises à la juridiction Française ; il ne paraît pas toutefois que la même faculté est accordée à celui qui a un différend avec un indigène : par conséquent, en ce cas, un sujet Italien, contrairement aux dispositions de notre Traité, se trouverait privé de tout droit d'appel ou de renvoi.

Pour ces motifs, je vous ai autorisé, par mon télégramme du 1^{er} Décembre, d'entrer dans un échange d'idées à cet égard avec votre collègue Britannique, et de faire, *mutatis mutandis*, une Déclaration analogue à celle qu'il a faite au Résident de France.

The Earl of Lytton to the Marquis of Salisbury.—(Received December 20.)

(No. 46.)
(Telegraphic.)

Paris, December 20, 1888.

FRENCH Resident at Tunis was informed by Italian Consul on the 17th instant that Italy is strongly and specially supported by England in following demands:—

1. Establishment by Italian Government of public as distinguished from private schools at Tunis.
2. Refusal of all inspection not spontaneously solicited by Italian Consuls.
3. Exemption from Tunisian Law of all private Associations if presided over by Italian Consul.

France does not object to new private schools, but denies right of Italian Government to establish State schools as if on Italian territory. She is willing to limit inspection to sanitary purposes in concert with Italian Consul, but not to make it dependent on Consul's demand. She regards position claimed for private Associations as incompatible with Capitulations, contrary to terms of Franco-Italian Treaty, and totally subversive of French Protectorate.

I am asked if statements of Italian Consul as to England's support of these demands is correct. French Government believes them to be disapproved by Germany and Austria.

No. 55.

The Marquis of Salisbury to the Earl of Lytton.

(No. 21.)
(Telegraphic.)

Foreign Office, December 21, 1888, 4:30 P.M.

YOUR telegram No. 46.

Her Majesty's Government have not supported demands on which they are not prepared at present to express an opinion.

No. 56.

The Marquis of Salisbury to the Earl of Lytton.

(No. 562. Ext.)
My Lord,

Foreign Office, December 21, 1888.

IN reply to your Excellency's telegraphic despatch of the 20th instant in regard to the attitude assumed by the Italian Consul at Tunis with respect to Italian schools in the Regency, and the rumoured support given thereto by Her Majesty's Government, I have to inform your Lordship that Her Majesty's Government have not taken any action in support of the Italian demands on which they are not at present prepared to offer an opinion.

I have this day communicated to your Excellency the substance of the foregoing by telegraph.

I am, &c.
(Signed) SALISBURY.

No. 57.

The Earl of Lytton to the Marquis of Salisbury.—(Received December 22.)

(No. 613.)
My Lord,

Paris, December 20, 1888.

SOME days ago Count Hoyos informed me that, in his last interview with the French Minister for Foreign Affairs, M. Goblet had expressed great surprise and anxiety in reference to a recent announcement by the Italian Government of its intention to open new schools at Tunis, under conditions and on a footing which the French Government could not possibly regard as admissible, and which appeared expressly designed to reopen, in an aggravated form, the disputes arising out of the late

Beylical Decree, which he (M. Goblet) had done his utmost to close by concessions that could not be exceeded without a complete abandonment of the French Protectorate at Tunis.

My Austrian colleague intimated to me that this step on the part of Signor Crispi was regarded as untimely and unjustifiable by the Austrian Government, which would, he had no doubt, be joined by that of Germany in the endeavour to restrain the combative activities of the Italian Prime Minister.

Yesterday afternoon, when I had occasion to see M. Goblet upon other matters, his Excellency referred to the above-mentioned circumstance, observing that he was glad to have the opportunity of explaining to me the exact state of the case, because he found it difficult to believe that the Government of Italy can have received from Her Majesty's Government the unreserved encouragement and active support on which it professes to be acting in reference to the demands now put forward by it.

His Excellency said that, having given to the Italian Government the assurance that no attempt would be made to apply to existing Italian schools at Tunis the Beylical Decree against which that Government protested, he had trusted that, in the absence of any practical grievance, the attitude of Italy would now be in accordance with the confidence expressed to him by General Menabrea on "the healing influence of time." He was therefore much surprised to learn from M. Massicault that the Italian Consul was engaged in the preparation of premises for new schools, of which no notice had been given either to the Beylical authorities or the French Government. His representation to General Menabrea, that this was not the way to promote "the healing influence of time," eventually elicited an official communication from Signor Berio to M. Massicault of the intention of the Italian Government to open new schools at Tunis.

The French Government, accepting this communication as the announcement of a legitimate intention, at once instructed M. Massicault to communicate to M. Berio certain draft Regulations, upon which it was anxious to come to a preliminary understanding with the Italian Government, as to the position of these new schools in relation to the local authority. The apparent object of the Regulations is to minimize the application of the Beylical Decree. But I need only mention here two of them upon which controversy has arisen. The first provides that Italian subjects intending to open schools at Tunis shall give eight days' notice of their intention to the Tunisian Government; and the fourth provides that the inspection of such schools by the Tunisian authorities shall be of an exclusively sanitary character, that it shall have no reference to teaching or management, and that it shall only be carried out in concert with the Italian Consul.

M. Goblet read to me a telegraphic despatch, dated the 18th instant, which he had just received from M. Massicault, reporting the reply which Signor Berio had been instructed to make to the above-mentioned communication. In this reply the Italian Government accepts the first of the proposed Regulations, so far as regards the eight days' notice, but demands that the terms of the Regulations, which refer only to private schools opened by Italian subjects, shall be so altered as to acknowledge the right of the Italian Government itself to establish at Tunis public and national schools of the same kind and on the same footing as those which are maintained and conducted by the State in Italy.

To the fourth Regulation it objects, and proposes to substitute for it a provision that no inspection of any kind shall be permitted to the Tunisian authorities except on the spontaneous invitation of the Italian Consul. Furthermore, it demands that all private Associations formed under the Presidency or with the approval of the Italian Consul shall be completely exempted from Tunisian Law.

Signor Berio adds that he is instructed to inform the French Government that these demands are approved and supported by the German and English Governments, but more especially by the latter.

In reference to the first of the three demands, M. Goblet observes that the claim of the Italian Government to establish Government schools at Tunis, without reference to and on a footing wholly independent of the Local Government, is unheard of; that schools of that character can only be maintained by one State upon the territory of another in virtue of special conventional arrangements between the States concerned; and that no such right is deducible from the Capitulations, of which he fully recognizes the validity.

The second demand he considers equally inadmissible, on similar grounds; and the third he characterizes as absolutely incompatible with the existence of the French Protectorate.

After reading to me M. Massicault's despatch, his Excellency asked me whether it was true, as stated by Signor Berio, that Her Majesty's Government had instructed their Representative at Rome to convey to the Government of Italy their approval of these demands, and their promise to support them.

I replied that I had no knowledge of any such step having been taken by Her Majesty's Government, and that it appeared to me not altogether improbable that Signor Berio's statement might have reference to circumstances of an earlier date connected with the Beylical Decree, in reference to which I believed that Her Majesty's Government had been advised by their legal authorities that the Capitulations cannot be modified or superseded by such an act on the part of the Tunisian Government.

To that view of the Capitulations his Excellency unreservedly assented, but he contended that the Capitulations furnished no basis for the demands now put forward by Italy, and that the effect of those demands would be to establish Italy at Tunis on a footing that must, for all practical purposes, convert Tunisian into Italian territory, and thus create a double Protectorate.

M. Goblet went on to say that, personally, he had always disapproved the policy which had placed France in her present position in Tunis, but that, having, with the assent of Europe, assumed the Tunisian Protectorate, she cannot surrender it to systematic menace on the part of a neighbouring Power. The conduct of the Italian Government, he said, was only intelligible on the assumption that the object of it is to advertise Italy's non-recognition of the existence of a French Protectorate at Tunis, and her determination to take possession of Tunis herself on the first favourable opportunity. That, he observed, was an intelligible policy, and, from an Italian point of view, it might be a wise one. But it was a war policy, since the object of it is unattainable without war; and it renders useless all the concessions which, short of surrendering her Protectorate, France is sincerely willing to make for the sake of peace and goodwill.

With regard to Germany's alleged support of the last Italian demands, his Excellency added that he had reason to believe that those demands were disapproved and discouraged by Germany as well as Austria. Owing to Count Münster's absence from Paris, I have not had any opportunity of ascertaining from him whether M. Goblet's impression is correct.

I have, &c.
(Signed) LYTTON.

No. 58.

The Earl of Lytton to the Marquis of Salisbury.—(Received December 24.)

(No. 620.)

My Lord,

Paris, December 22, 1888.

WITH reference to your Lordship's telegram of yesterday, I have the honour to inform your Lordship that I have intimated to M. Goblet privately that the demands of the Italian Consul in Tunis with regard to public schools and the other matters referred to in his Excellency's conversation with me on the 19th instant, and reported in my telegram No. 46 of the 20th instant, have not received the support of Her Majesty's Government, and that they are not at present prepared to express an opinion upon them.

I have, &c.
(Signed) LYTTON.

No. 59.

Consul Ricketts to the Marquis of Salisbury.—(Received December 26.)

(No. 30.)

My Lord,

Tunis, December 18, 1888.

I HAVE the honour to transmit herewith inclosed to your Lordship a despatch from Mr. Portelli, British Consular Agent of Monastir, stating that the authorities of that place insist on subjecting the Interpreter of his Consulate to the payment of the pell tax.

This conduct appearing to me contrary to the provisions of the Treaty of 1875, I

addressed on the 14th instant a note on this subject to the Resident, copy of which is herewith inclosed.

No answer has been as yet received from his Excellency.

I have brought this matter to the attention of your Lordship, to show the little respect which the authorities of the interior manifest as regards our Treaties.

I have, &c.
(Signed) G. T. RICKETTS.

Inclosure 1 in No. 59.

Mr. Portelli to Consul Ricketts,

(Translation.)

Monastir, December 10, 1888.

Sir, I HAVE the honour to inclose herewith a Beylical Decree belonging to Mohamed-il-Frighi, who has been lately asked to pay the Mejbah.

I have been both to the local Governor and the Contrôleur Civil at Susa to make them recognize the above-mentioned Decree, but both the authorities refused to do so.

It would be the most sad sight in the world if Mohamed-il-Frighi, after having served for twenty years in this British Consular Agency, should be subjected to all these Beylical restrictions.

I beg you, therefore, either to change the Decree as my interpreter, or to make it hold good as regards its rights and privileges.

I have, &c.
(Signed) T. PORTELLI, British Consular Agent.

Inclosure 2 in No. 59.

Mr. Ricketts to M. Massicault.

M. le Ministre,

Tunis, December 14, 1888.

I HAVE the honour to inclose herewith to your Excellency a copy of a letter which I have received from the British Consular Agent of Monastir, stating that the authorities of that place insist on collecting from the Interpreter to the Consulate the tax called the Mejbah.

As the Interpreter of that Consulate has up to the present been exempt from the payment of this imposition, I trust your Excellency will be pleased to cause an inquiry to be made into the conduct of the authorities of Monastir, in order that this privilege, long enjoyed under Treaty, be not interfered with.

I have, &c.
(Signed) G. T. RICKETTS.

No. 60.

Consul Ricketts to the Marquis of Salisbury.—(Received December 26.)

(No. 31.)

My Lord,

Tunis, December 18, 1888.

ON the 24th ultimo I addressed a note to the Resident, notifying to him the substance of your Lordship's despatch No. 16 of the 17th November.

Since my conversation with the Resident, mentioned in my No. 29, Confidential, of the 5th instant, I have had no further communication with his Excellency on this subject.

Should, therefore, any case arise in which my intervention is called for, I shall treat it in accordance with the terms of the Treaty of 1863.

I have, &c.
(Signed) G. T. RICKETTS.

The Marquis of Salisbury to the Earl of Lytton.

(No. 567.)

My Lord,

Foreign Office, December 27, 1888.

I HAVE received your Excellency's despatch No. 613 of the 20th instant, reporting the substance of your conversation with the French Minister for Foreign Affairs on the subject of certain demands recently put forward by the Italian Government regarding new schools which they had announced their intention of opening in Tunis.

I have to state to your Excellency, in reply, that Her Majesty's Government had no knowledge of the Italian demands mentioned by M. Goblet until the receipt of your Excellency's despatch, and therefore could not have supported them, even if they were considered to be well founded.

I am, &c.
(Signed) SALISBURY.

M. Crispi to M. Catalani.—(Communicated to the Marquis of Salisbury by M. Catalani, December 28.)

(Télégraphique.)

Rome, le 28 Décembre, 1888.

LE Consul du Roi à Tunis télégraphie que les employés Italiens, Maltais, et Grecs, ont été prévenus d'obtenir, sous un court délai, la nationalité Française, sous peine d'être congédiés. Une telle intimation a été officiellement donnée à une dizaine d'employés de la Municipalité de Tunis, et à plusieurs employés à Sousse, Sfax, Monastir, et Mehdi.

Il est superflu de faire remarquer que cette mesure constitue une nouvelle violation des Capitulations et des Traités, et une provocation gratuite. L'acte est, en outre, illogique, puisque, s'agissant de l'Administration Tunisienne, la naturalisation qu'on voudrait imposer devrait être non pas la Française, mais la Tunisienne.

Les sujets Italiens à Tunis n'accepteront pas l'invitation dont il s'agit, et ils resteront sujets Italiens. Le Gouvernement du Roi ne manquera pas de leur venir en aide, et je ne doute pas que le Gouvernement Anglais se préoccupera, de son côté, de la situation de ses sujets à Tunis.

Désirant procéder à ce sujet d'accord avec le Gouvernement Anglais, veuillez demander sur cette question l'avis de Lord Salisbury. L'attitude de sa Seigneurie, conforme à celle du Gouvernement Italien, pourra sans doute conjurer une nouvelle complication avec la France, et maintenir intact les droits assurés à l'Italie et à l'Angleterre par les Capitulations et les Traités.

The Earl of Lytton to the Marquis of Salisbury.—(Received December 29.)

(No. 623. Confidential.)

My Lord,

Paris, December 27, 1888.

M. GOBLET, when I saw him last Wednesday, again referred to the unsatisfactory condition of the relations between France and Italy, with special reference to the demands now put forward by the Italian Government, relative to the establishment of Government schools and other matters concerning the status of Italian subjects and institutions at Tunis.

He said that M. Massicault had been led to expect a further communication from Signor Berio on this subject; that up to the time at which he was speaking no such communication had been received; and that he had reason to fear the Italian Government was about to open Government schools at Tunis without further reference to the Government of France, and in disregard of its remonstrances.

Such a step, he said, would be a deliberate act of aggression and provocation, to which, notwithstanding its earnest desire to avoid the quarrel which Signor Crispi seemed bent upon forcing on it, the French Government could not passively submit.

His Excellency then entered into a general review of various circumstances illustrating the attitude maintained by the Italian Government towards that of France in

reference to Tunisian affairs. This he described as a systematic attempt to override and destroy the French Protectorate at Tunis, by continually acting in disregard of its existence. France, he said, even if willing to enter into negotiation with other Powers for the surrender of the Protectorate she had assumed with their assent could not abandon it to the dictation of Italy, nor allow herself to be ousted from it by the arbitrary action of that Power.

The course of action, therefore, pursued by Italy in reference to Tunis must, if unmodified, result in a serious collision between the two nations. Indeed, such a collision might occur at any moment; for the aggressive attitude assumed by the Italian Government at Tunis was accompanied by naval preparations in the Mediterranean which imposed corresponding preparations upon France.

He had been assured by my German and Austrian colleagues that, if Italy provokes a quarrel with France, she will do so at her own risk and peril; and these assurances he did not doubt. But he could not resist the impression that Signor Crispi is acting on the calculation that, if Italy is engaged in hostilities with France, no matter what the occasion of them, and if the conflict goes against her, Germany and Austria certainly, and England probably, will be obliged to come to her rescue.

I have, &c.
(Signed) LYTTON.

The Earl of Lytton to the Marquis of Salisbury.—(Received December 29.)

(No. 628. Confidential.)

My Lord,

Paris, December 28, 1888.

WHEN I last saw M. Goblet, I asked him if he could tell me what Cardinal Lavignerie is doing at Rome.

His Excellency replied that the Cardinal is a vain man, very ambitious, and animated by an inordinate desire to make himself important; that, in this aim, he is continually acting beyond his legitimate sphere; and that very possibly he might now be indulging in amateur diplomacy at Rome, where he was said to be engaged in the endeavour to bring about a European Conference on the Slave Trade—an idea which his Excellency believed the German Government was not disinclined to entertain. But that, whatever the Cardinal might be doing at Rome, he was certainly acting without the knowledge or encouragement of the French Government.

My reason for asking M. Goblet this question was suggested by the reference in Mr. Consul Ricketts' despatch No. 26, Confidential, to your Lordship of the 27th ultimo, to Cardinal Lavignerie's letter to Dr. Spezzafogo, and also by the fact that I had previously heard indirectly, and from a private source, that to some extent the strained relations between France and Italy in reference to Tunis had been aggravated by the Cardinal's active interference in Tunisian affairs.

Some months ago, Count Münster intimated to me his belief that the vehemence of the Italian protest against the Beylical Decrees about Italian schools was largely due to Signor Crispi's dislike and mistrust of Cardinal Lavignerie, to whom the Italian Government attributed the instigation of the obnoxious measure.

But if his Eminence is an *ingrata persona* to Signor Crispi, he is equally so to M. Goblet.

I have, &c.
(Signed) LYTTON.

Mr. J. G. Kennedy to the Marquis of Salisbury.—(Received December 31.)

(No. 335. Confidential.)

My Lord,

Rome, December 21, 1888.

I TO-DAY paid my first visit to the French Ambassador to the Quirinal, who, as your Lordship is aware, has recently replaced Count Mouy.

M. Mariani received me very cordially. His Excellency, in allusion to some press articles stating that he had a mission of reconciliation, stated that his Italian sympathies were well known in France, and that M. Goblet had on that account appointed

him to Rome. His Excellency spoke of the commercial relations between Italy and France, expressing regret at the denunciation by Italy of the Treaty of 1881, which he himself had framed and negotiated; but his Excellency admitted that, owing to the strong protectionist feeling in the French Chamber, there was at present no prospect of a renewal of the Treaty. His Excellency mentioned the fact that there were about 80,000,000*l.* worth of Italian Consols, Railway obligations, and Treasury bonds held in France, for the interest of which the Italian Government had to provide funds under far greater difficulties now that the Italian exports to France had so greatly diminished under the war Tariffs.

In reference to his former residence in Italy, M. Mariani said that he had many personal friends everywhere, and especially at Milan, but on that account he was careful in no way to mix himself up in Italian domestic questions. He told me that recently an Association had been formed in Milan, called the League of Peace, of which the prominent members were Republicans and ex-Garibaldians: one of the members, whom he had known well in former days, had called upon him in reference to the objects of the League, but he had declined to receive him.

His Excellency expressed the hope that the relations between France and Italy would improve, and said that, although at present there was no cause for quarrel, he could not help feeling anxious respecting affairs in Tunis. He had no instructions to discuss the question, and therefore he should avoid any allusion to Tunis in conversation with Signor Crispi, but he knew that the question of Inspection of Schools was still open, because Signor Crispi had declined to sanction the proposal made by the Italian Consul in Tunis, and accepted by France, that the official inspection would only apply to schools established in the future.

M. Mariani added that France had always been conciliating towards Italy in regard to Tunis; that the Protectorate of that country and subsequent measures complained of by Italy were entirely due to Italian intrigues directed against France; that Italy had best not provoke France further, because the only result would be the annexation of Tunis.

In conclusion, his Excellency said that the Tunisian question should be carefully watched by Europe, because, although France wished to keep matters as they are, and to avoid irritating questions, she could not submit to the perpetual interference of Italy in matters of administration. M. Mariani added that if he, with his Italian sympathies, spoke warmly respecting Tunis, I might believe that the feeling in France was still stronger.

I have, &c.
(Signed) J. G. KENNEDY.

No. 66.

M. Crispi to M. Catalani.—(Communicated to the Marquis of Salisbury by M. Catalani, December 31.)

(Télégraphique.) Rome, le 31 Décembre, 1888.
L'AMBASSADEUR de France est venu aujourd'hui me donner des explications sur les mesures prises contre les employés Italiens en Tunisie. D'après M. Mariani, ils s'agiraient de cas isolés et d'un petit nombre d'exclusions motivées par des manquements personnels. Nos informations provenant de sources diverses ayant été d'une toute autre teneur, je dois supposer que le Gouvernement Français ayant reconnu les difficultés auxquelles il s'exposait, ait préféré revenir sur son intention première qui était manifestement contraire aux dispositions du Traité Italo-Tunisien, et du Protocole Italo-Français du 25 Juin, 1884. Par suite des explications de M. Mariani, il me semble qu'il n'y a pas lieu à procéder, et la question peut se considérer comme apaisée.

No. 67.

Foreign Office to Consul Ricketts.

(No. 2.)
Sir,

Foreign Office, January 2, 1889.

I AM directed by the Marquis of Salisbury to acknowledge the receipt of your despatch No. 30 of the 18th ultimo in regard to the demand made on the Interpreter of the British Consular Agency at Monastir by the authorities of that place for payment of

the poll tax, contrary to the provisions of Article III of the Convention with Tunis of the 19th July, 1875.

I am to convey to you his Lordship's approval of the terms of your note to the French Resident, a copy of which you inclose, and to instruct you to press for a reply to it should none have been received when this despatch reaches you.

I am, &c.
(Signed) T. V. LISTER.

No. 68.

Consul Ricketts to the Marquis of Salisbury.—(Received January 3, 1889.)

(No. 32.)

My Lord,

Tunis, December 24, 1888.

I HAVE the honour to inform your Lordship that on the 16th of this month the shop and premises of a certain Mr. G. Licari (British subject), proprietor of a manufactory, and residing at Tunis, was entered by the police under the orders of an Inspector of the Sanitary Board appointed by the Municipal Council. Some 2,000 bottles of liquor and various other articles were then seized and placed under seal. Two months prior to this, the establishment of Mr. Licari was entered by an Inspector and several samples demanded of the goods manufactured. The samples were not obtained by paying for them, but were taken as a right. Having been subjected to an analysis, they were found, according to French experts, unfit for consumption, and were accordingly seized as above related. The Rules regulating the sale of liquors are published in a Municipal Decree of the 15th July, 1888, and are herewith inclosed.

Mr. G. Licari, the owner of the goods, who was away at the time, has now returned, and asserts positively that the alcohol for making his liquors was bought in France, that the colouring matter is merely cochineal, and that the goods sold by him are quite harmless. He has been to the President of the Municipal Council and demanded a fresh examination; the President says he is very sorry, and has referred him to the Procureur, to whom the matter alleged to be criminal has been submitted.

Mr. Licari called on the Procureur and told him he wished an examination to be made of the sealed samples by other experts appointed by the Municipality, some one being permitted also to attend on his behalf. The Procureur advised him to petition him on this subject. If then this be admitted, Mr. Licari will have the means of proving the truth of his assertions; but, if not allowed, there is apparently no remedy. Indeed, the only way in which this could have been done properly would have been through an inspection having been permitted at the time of the first entry as well as at the time of the seizure, in the presence of some one deputed by the Consulate; and such is the line of procedure which would have been adopted had this question arisen under the Government of the Bey, unshackled by French interference. The authorities assert their right in this affair, basing it on the XVIIth Article of the Treaty of 1875, under which foreigners are subjected to the formalities of the Municipal laws, the jurisdiction having been ceded to them.

If the act complained of had proceeded in the first instance under an order of the Court, the Consular jurisdiction having been ceded, this line of argument might perhaps be admitted. As, however, the sequester of this property was carried out by the order of the officers of the Municipality, no Judge's order having been issued in the commencement, the following question arises: Can the entry of the establishment of Mr. Licari by the police, in company with the Municipal and Sanitary authorities, be looked upon as coming within the scope of the Order in Council of 1883, or ought it to be regarded as an act proceeding from the Administrative authorities, which should have been notified to the Consulate in accordance with the terms of the Protocol of 1868, signed at Constantinople, under which "the dwelling of a foreigner is inviolable, the officers of the police not being able to enter without the consent of the Consulate?"

In this case is involved the principle of the inviolability of the dwellings of foreigners by the Municipal and other authorities, a principle which is upheld by Article V of the Treaty of 1875, and which has always been acknowledged in the Levant. The decision which may regulate this point in future is of the greatest importance to foreigners residing here, for it cannot be disguised that whereas British and foreign traders, especially Italians, are exposed to much trouble and annoyance through the execution of the Beylical Decree aforesaid, little notice is taken of the

spurious liquors imported from France, as well as of those manufactured by French distillers.

Your Lordship will see, from what has herein been said, how difficult it is for Treaties to be rightly maintained when the basis on which they rest has been removed.

After writing the above I received a letter from Mr. Licari, copy of which is herewith inclosed. From this it would seem that the authorities have not yet decided upon their final action in this matter.

Herewith inclosed will be found a protest in this matter made by Mr. Licari.

I have, &c.
(Signed) G. T. RICKETTS.

Inclosure 1 in No. 68.

Extract from the "Journal Officiel Tunisien."

Alimentation Publique.

LE Général, Président de la Municipalité, Chevalier de la Légion d'Honneur;
En vertu des pouvoirs qui lui sont conférés par les Décrets d'Organisation des Communes de la Régence;

Vu le Décret du 11 Ramadan, 1305 (21 Mai, 1888) relatif à la falsification et à l'altération des substances ou denrées alimentaires ou médicamenteuses destinées à être vendues;

Vu l'avis de M. le Directeur du Laboratoire de Chimie Agricole et Industrielle de la Régence;

Vu l'avis de M. l'Inspecteur des Denrées Alimentaires;
Considérant que pour les liquides alimentaires, vins, bière, lait, sirops, liqueurs et vinaigres, il est particulièrement utile de préciser les falsifications qu'ils peuvent subir et les conditions dans lesquelles ils doivent être livrés à la consommation.

Arrête :

Article 1^{er}. L'emploi dans les boissons de l'acide salicylique est formellement interdit. Sa présence en quelque proportion que ce soit, sera toujours considérée comme falsification nuisible à la santé.

Art. 2. Aucun vin ne pourra être livré à la consommation s'il ne contient par litre 8 pour cent d'alcool en volume et 20 grammes d'extrait sec.

Seront considérés comme vins frelatés, tous vins dans lesquels auront été ajoutés des matières pouvant changer sa composition primitive.

Toutefois le plâtrage sera toléré jusqu'à concurrence de 3 grammes de sulfate de potasse par litre. Au delà de cette quantité le plâtrage sera considéré comme falsification nuisible à la santé.

Le sucrage appliqué aux vins naturels sera poursuivi comme falsification.

L'addition de glucose dans les vins dits sucrés, ou piquettes, sera considérée comme falsification nuisible à la santé.

Art. 3. L'eau, la levure, l'orge, et le houblon doivent seuls entrer dans la préparation de la bière.

Tout liquide vendu sous le nom de bière qui renfermerait d'autres éléments sera considéré comme falsifié à moins que, les matières employées étant inoffensives, cette boisson ne soit vendue sous une dénomination indiquant suffisamment la nature des produits ajoutés.

Les bières livrées à la consommation devront contenir au minimum par litre 3 pour cent en volume, 35 grammes d'extrait sec et 1 gr. 5 de cendres.

Toute bière dont la composition serait au-dessous de ces limites sera considérée comme mouillée et ne pourra être vendue que sous le nom de petite bière.

Art. 4. Tout lait mis en vente devra contenir pour 100 parties :—

Au maximum : 90 parties d'eau.

Et au minimum : 10 parties de matières sèches (extrait) réparties ainsi qu'il suit :—

Beurre ..	..	..	..	..	..	..	20 parties.
Sucre de lait ..	..	..	..	..	..	..	40 "
Caseïne, allumine, et cendres..	..	..	..	..	..	..	40 "
							100 "

Le lait mis en vente qui contiendrait moins de 10 parties pour cent de matières sèches (extrait) sera considéré comme lait falsifié aussi bien que celui qui contiendrait des matières étrangères à sa composition normale.

Art. 5. Le sucrage des sirops et liqueurs au moyen de glucose est interdit. Il sera considéré comme falsification nuisible à la santé.

La coloration artificielle sera tolérée à la condition d'être obtenue par l'emploi des matières suivantes :—

Indigo, bleu de Prusse ou de Berlin, bleu outremer, cochenille, carmin, laque carminée, laque du Brésil, orseillé, safran, graine d'Avignon, graine de Perse, quercitron, curcuma, fustel, bois d'Inde.

Sont formellement interdites comme matières nuisibles à la santé, les composés de cuivre, de plomb, de baryte, d'arsenic, et de mercure.

Art. 6. L'addition d'acides étrangers à la composition du vinaigre, sera considérée comme falsification.

L'emploi d'acides minéraux constituera une falsification nuisible à la santé.

Art. 7. M. le Directeur du Laboratoire de Chimie, Agricole, et Industrielle, M. l'Inspecteur des Denrées Alimentaires, et M. le Commissaire Central sont chargés, chacun en ce qui le concerne, de l'exécution du présent Arrêté.

Le Président de la Municipalité,
(Signé) MOHAMMED EL-ASFOURI.

Tunis, le 2 Juillet, 1888.

Vu et approuvé :
Le Premier Ministre,
(Signé) MOHAMMED EL-AZIZ-BOU-ATTOR.

Tunis, le 15 Juillet, 1888.

Alimentation Publique.

Le Général, Président de la Municipalité, Chevalier de la Légion d'Honneur,
En vertu des pouvoirs qui lui sont conférés par les Décrets d'Organisation des Communes de la Régence;

Vu le Décret du 11 Ramadan, 1305 (21 Mai, 1888), relatif à la falsification et à l'altération des substances ou denrées alimentaires ou médicamenteuses, destinées à être vendues;

Vu l'avis de M. le Directeur du Laboratoire de Chimie, Agricole, et Industrielle;

Vu l'avis de M. l'Inspecteur des Denrées Alimentaires;

Considérant que si la coloration artificielle de certaines denrées et spécialement des confiseries, est d'un usage constant, elle ne doit être tolérée qu'à la condition d'être obtenue par l'emploi de substances inoffensives.

Arrête :

Article 1^{er}. La coloration des produits de la confiserie devra être exclusivement obtenue par l'emploi des matières ci-après :—

Couleurs bleues.—Indigo, bleu de Prusse ou de Berlin, bleu d'outremer.

Couleurs rouges.—Cochenille, carmin, laque carminée, laque du Brésil orseillé.

Couleurs jaunes.—Safran, grains d'Avignon, graine de Perse, quercitron, curcuma, fustel.

Couleurs vertes.—Mélange des substances ci-dessus donnant les couleurs bleues et les couleurs jaunes.

Couleurs violettes.—Bois d'Inde.

L'emploi des composés de cuivre, de plomb, est formellement interdit et sera considéré comme falsification nuisible à la santé.

Art. 2. M. le Directeur du Laboratoire de Chimie, Agricole, et Industrielle, M. l'Inspecteur des Denrées Alimentaires, et M. le Commissaire Central, sont chargés, chacun en ce qui le concerne, de l'exécution du présent Arrêté.

Le Président de la Municipalité,
(Signé) MOHAMMED EL-ASFOURI.

Tunis, le 2 Juillet, 1888.

Vu et approuvé :
Le Premier Ministre,
(Signé) MOHAMMED EL-AZIZ-BOU-ATTOR.

Tunis, le 15 Juillet, 1888.

Inclosure 2 in No. 68.

Mr. Licari to Consul Ricketts.

Tunis, le 24 Décembre, 1888.

M. le Consul,

J'AI l'honneur de vous faire part des faits suivants, lesquels concernent l'objet même des requêtes que j'ai eu l'honneur de vous adresser les 17 et 21 courant.

Aujourd'hui, Lundi, 24 Décembre, 1888, vers 10 heures du matin, M. Sbrana, Inspecteur Municipal de l'Alimentation et Hygiène Publiques, s'est présenté chez moi, en mon établissement, Rue d'Espagne, et m'a dit tout d'abord que je devais ne point m'offusquer des mesures ordonnées et mises en exécution contre moi, que la saisie pratiquée dans mon établissement le 16 courant avait été faite non seulement chez moi mais encore chez de mes confrères, qu'enfin lui (M. Sbrana) n'avait personnellement rien fait à mon encontre qu'en vertu des ordres et du mandat qu'il avait reçus de l'autorité.

Puis il m'a dit que M. le Chimiste du Laboratoire Municipal, avant de laisser nommer de nouveaux experts par le Juge d'Instruction, voulait se bien persuader de l'exactitude de ses analyses, "attendu que les chimistes mêmes du laboratoire de Paris se trompent facilement." (Ce sont textuellement les paroles de M. Sbrana).

Il m'a dit encore que M. le Chimiste a reconnu que le "Sirop de Gomme" saisi chez moi, bien qu'il ne contienne pas de gomme (suivant l'analyse municipale) n'est pas nuisible à la santé; et qu'il se proposait d'analyser le sucre qui compose ce sirop pour rechercher qu'il contient de la glucose.

M. Sbrana m'a encore rapporté que M. le Chimiste Municipal n'a trouvé dans les liqueurs saisies chez moi autre chose qu'un dérivé du goudron de houille, mais que cela était chose à vérifier. Je dois ajouter à ce sujet, que les nouvelles analyses que se propose de faire M. le Chimiste Municipal seront faites sur les échantillons des liqueurs saisies prélevés dans les succursales de mon établissement à Tunis.

Enfin, M. Sbrana m'a appris que des pourparlers et des démarches auprès du Juge d'Instruction avaient eu lieu pour ménager une mesure transitoire telle que celle prise pour la vente des vins plâtrés, c'est-à-dire, pour accorder un délai pendant lequel l'écoulement des liqueurs et sirops saisies serait permis, sauf l'édiction de mesures à observer ultérieurement.

Je dois vous informer, M. le Consul, de ce que ce colloque a eu lieu en présence de MM. Gius. Bianchi, plombier, Gagou Gabison, agent de change, Emmanuele Licari, mon frère, et Perez, mon comptable.

En somme, je suis persuadé de ce que :—

1. M. Sbrana n'est pas venu de son propre mouvement me dire tout cela, mais qu'il était mandé par ses chefs; un agent l'accompagnait, et s'est promené de long en large devant ma porte, pendant toute la durée de notre conversation.

2. Cette démarche doit provenir de ce que M. le Chimiste Municipal craint de s'être trompé dans ses analyses, de s'être trop avancé en signalant les échantillons de mes liqueurs saisies comme nuisibles à la santé; et cette démarche doit avoir pour but de me faire désister de mes protestations et de me faire abandonner les réclamations que j'ai remis entre vos mains, aux soins de votre haute et paternelle bienveillance.

Mais je n'en persiste pas moins, M. le Consul, dans mes réclamations et protestations; et c'est précisément pourquoi j'ai cru devoir vous donner le détail circonstancié des faits ci-dessus.

Agréez, &c.

(Signé) G. LICARI.

Inclosure 3 in No. 68.

Mr. Licari to Consul Ricketts.

Tunis, le 21 Décembre, 1888.

M. le Consul,

COMME suite à ma requête du 17 courant, concernant la saisie de liqueurs pratiquée chez moi par les agents du Service Municipal de l'Alimentation et de l'Hygiène Publiques, j'ai l'honneur de vous exposer :

Que je proteste contre les faits accomplis contre moi, en ma demeure, le 16 Décembre, 1888, et relatés dans ma requête susmentionnée. Je considère comme une violation des Traités l'entrée dans mon domicile d'agents de la Municipalité Tunisienne, agissant sans l'autorité d'une décision émanée des Tribunaux réguliers établis et seuls reconnus par les Traités en vigueur. Je considère que ces agents

n'avaient aucun mandat valable, aucune autorité pour pénétrer dans mon domicile, y faire des recherches et perquisitions, interdire ma porte, saisir des marchandises, &c. Je considère que comme sujet Anglais, je ne suis soumis qu'aux Magistrats des Tribunaux Français régulièrement institués, et que tout agent quelconque de l'autorité Tunisienne qui à affaire chez moi ne peut y pénétrer sans mon assentiment, qu'avec l'approbation et l'assistance de mon Consul. Si ma façon de voir est exacte en ce point, s'il y a lieu de considérer comme violation des Traités l'entrée dans mon domicile des agents de la Municipalité Tunisienne, les faits dont je suis victime constituent absolument une violation de domicile. Chose grave.

Que je proteste et prétends contredire les analyses faites par les soins de la Municipalité Tunisienne des échantillons de liqueurs et sirops prélevés dans mes magasins. J'ai fait procéder déjà à de premières épreuves et je me propose de demander la contre-expertise ou contre-analyse des liqueurs déclarées impropres à la consommation par la Municipalité. Je crois pouvoir parvenir à démontrer que les analyses Municipales sont inexactes, que les liqueurs et sirops saisis ne contiennent pas le dérivé de houille que le Chimiste Municipal a déclaré (sans préciser, sans dire quel dérivé) avoir servi de colorant.

J'étais absent, et c'est à mon retour que je m'empresse de vous adresser cette protestation.

J'y dois ajouter que je fais mes réserves les plus expresses au sujet des faits susmentionnés, à raison du préjudice matériel et moral que m'ont causé ces faits.

Veuillez, &c.

(Signé) G. LICARI.

P.S.—Je viens de recevoir en ce moment un mandat de comparution de la part du Parquet pour demain à 3 heures de l'après-midi pour comparaître moi et mon frère Emmanuele devant le Juge d'Instruction.

G. L.

No. 69.

Consul Ricketts to the Marquis of Salisbury.—(Received January 3, 1889.)

(No. 33.)

My Lord,

Tunis, December 28, 1888.

I HAVE the honour to transmit herewith inclosed to your Lordship, in translation, a despatch from the Vice-Consul of Monastir of the 20th instant, stating it has been rumoured that all British subjects employed in that district under the Government of the Bey are likely to be dismissed from their offices should they not assume French nationality.

This rumour has been confirmed in a despatch of the 24th instant, a translation of which is also herewith sent.

On the other hand, it is reported in Tunis that all foreigners employed in the Bey's service will have the option of becoming either Tunisian or French subjects, and that a Decree will be shortly issued to this effect, but the truth of this will only be able to be ascertained after publication of the Decree in question.

What may be the exact number of Maltese subjects who are likely to be affected by this measure I cannot at present say, but they are probably not far from fifty. Some are engaged in the Resident's office, some in the Customs, some in the service of the ports, while others are employed as clerks to the Municipalities, there being no less than twenty-four Maltese in Government offices at Tunis alone. Some of these have passed many years in the service of the Bey prior to the French occupation, but none of them, when they took service, ever contemplated the idea of being asked to give up their own national character.

A master is not obliged to retain a servant any longer in his service than he chooses, but in most civilized countries he is liable to an action of damages should he dismiss his employé without good reason before the term of his service expired, or without giving due notice of his intention in this respect.

If, therefore, any of these persons consider themselves aggrieved, they ought to be indemnified for the wrong done, for the refusal to assume the nationality of a foreign State, no stipulation having been entered into on this point at the time of engagement, can hardly be held a legal cause of dismissal; but will they be able to obtain any redress in this country through the process of law? I think not. They must therefore either lose

their nationality, or give up the employments hitherto secured to them under the Government of the Bey, the only means of supporting themselves and their families.

One can understand some such regulation as the above being made applicable to foreigners entering the Bey's service after a given date, but its application without due notice is, to say the least of it, harsh and arbitrary.

No posts have been abolished by this Government with the view of economy, nor, as far as I can find out, have any faults or misconduct been attributed to the Maltese officials. One is therefore led to regard this measure as arising solely from a desire on the part of the advisers of the Bey to place the various Departments of the State in the hands of French subjects—another step in the process of annexation.

Numerous Italians being likely to be affected by this new regulation, a Report has, I believe, been made in reference to this matter by M. Berio to his Government.

I have, &c.
(Signed) G. T. RICKETTS.

Inclosure 1 in No. 69.

Mr. Portelli to Consul Ricketts.

(Translation.)

Sir,
AS it is rumoured that all persons employed who are not French subjects shall be dismissed unless they become so, I have been repeatedly asked by the Maltese employed at the Custom-house of this district to inform you of this circumstance that you may suggest to them what they are to do, as they have not the least intention of changing their nationality in case this measure is adopted.

I have, &c.
(Signed) F. PORTELLI.

Inclosure 2 in No. 69.

Mr. Portelli to Consul Ricketts.

(Translation.)

Sir,
I HAVE the honour to inform you that, in confirmation of what I have written in my last letter, it was this day intimated to all persons employed at the Custom-house that, if they did not become French subjects at the beginning of the new year, they shall be ordered to quit. What a fine Christmas present.

Among these there are three British subjects who have been employed with the Bey for the last thirteen years.

I have, &c.
(Signed) F. PORTELLI.

No. 70.

Consul Ricketts to the Marquis of Salisbury.—(Received January 3, 1889.)

(No. 37.)

My Lord,

Tunis, December 24, 1888.
I HAVE the honour to inform your Lordship that on the 18th of this month I attended a meeting of my colleagues for the nomination of Delegates as required under the Law regulating the organization of French jurisdiction in Tunis. Under this Law, two Delegates have to be appointed by the Representatives of the foreign Powers at Tunis. These Delegates sit on a Commission, together with the French Resident, the President of the Tribunal, and the Procurator of the Republic for the appointment of Assessors in criminal matters.

It will be observed, therefore, that the French members are in the majority, although the number of the French population does not form one-seventh part of that of the foreign Residents. It must also be borne in mind that the naming of two Delegates only by the Representatives of five or six foreign Powers, each having a community of its own to look after, is not an easy matter; in this instance the Commission of Consuls elected an Italian and Maltese Deleagué; but if an Italian and

a Spanish Deleagué were elected, the Maltese would be left without any one to represent their interests in criminal matters.

Under these circumstances, I would suggest that some alteration be made in this Law, and that each Representative should have the right of naming his own Deleagué.

I have, &c.
(Signed) G. T. RICKETTS.

No. 71.

Sir A. Paget to the Marquis of Salisbury.—(Received January 3, 1889.)

(No. 399. Very Confidential.)

My Lord,

Vienna, December 31, 1888.

HAVING learnt from my Italian colleague a few days ago that he had been instructed to call Count Kálnoky's attention to some measure which the Tunisian Government was about to take under the direction of the French Government, and which would have for effect the dismissal of a number of Italians employed in different branches of the Administration unless they renounced Italian and adopted French nationality, I made some inquiries on this subject in an interview I had with Count Kálnoky to-day.

His Excellency informed me that in consequence of Count Nigra's representations, he had instructed Count Hoyos to ascertain the real facts of the case, and, should they turn out to be such as reported by the Italian Ambassador, to make such friendly observations to M. Goblet as might induce the French Government to pause before carrying into effect measures which might be calculated to bring about complications between the two countries.

It would appear, however, that there has been no occasion for the Austrian Ambassador to act upon the latter part of these instructions, for upon mentioning the subject to the Foreign Minister, he was informed by his Excellency that the French Government had no intention whatever of taking any such step as the one referred to.

M. Goblet told Count Hoyos that it was true one or two Italians with the same number of Frenchmen had recently been removed from their employments, in pursuance of certain administrative changes which were being effected, and, moreover, that the French Government would prefer having French instead of Italian employés in the Custom-house; but any such sweeping measure as the one alluded to had never been in contemplation.

Count Kálnoky told me that he had always doubted the truth of the facts as related to him by Count Nigra by order of his Government, and had said so to his Excellency, because it was hardly to be supposed that other Governments would not have heard of them, and he had received nothing on the subject from either Paris or Tunis.

This, said Count Kálnoky, was a further instance of the impetuous and precipitate manner in which Signor Crispi was in the habit of conducting his business. Without waiting to investigate the correctness of the reports which he received, without, which would have been the natural course to pursue, appealing in a friendly manner to the French Government for information on the subject, he immediately jumps to the conclusion that what he has heard is true, and therefore fires off a denunciation, with an earnest appeal to other Powers, in which mention is made of "extreme measures, &c.," and in which is invoked their support of the representation which the Government of Italy is making to that of France.

I have, &c.
(Signed) A. PAGET.

No. 72.

The Earl of Lytton to the Marquis of Salisbury.—(Received January 3, 3.15 P.M.)

(No. 1.)

(Telegraphic.)

Paris, January 3, 1889, 1.15 P.M.

M. GOBLET yesterday denied absolutely truth of report, that all foreign employés in service of the Bey of Tunis would be dismissed unless they naturalized themselves Frenchmen.

Private letter from Consul at Tunis received to-day states, however, that Maltese have all been ordered to leave Bey's service if they do not become French.

On further inquiry at Foreign Office, I am again positively assured report is false.

It might be well to ask Consul what foundation he has for his statement.

No. 73.

The Marquis of Salisbury to Consul Ricketts.

(Telegraphic.)

Foreign Office, January 4, 1889, 5.20 P.M.

YOUR despatch No. 33.

The information conveyed very confidentially by the Vice-Consul at Monastir, that all employés in the Custom-house who refused to adopt French nationality would be dismissed, appears to be without foundation. Pray ascertain on what grounds he gave currency to so grave a statement.

No. 74.

Foreign Office to Consul Ricketts.

(No. 3. Ext.)

Sir,

Foreign Office, January 4, 1889.

I AM directed by the Marquis of Salisbury to acknowledge the receipt of your despatch No. 33 of the 28th ultimo.

I am to acquaint you that the information communicated to you very confidentially by Mr. Portelli, the British Vice-Consul at Monastir, translations of whose Reports accompany your despatch, to the effect that all Custom-house employés who declined to adopt French citizenship would be dismissed from their posts, appears to be without foundation. I am to instruct you to ascertain the grounds on which Mr. Portelli gave currency to so serious a statement.

The substance of the foregoing was this day sent to you by telegraph.

I am, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 75.

The Earl of Lytton to the Marquis of Salisbury.—(Received January 5.)

(No. 2. Confidential.)

My Lord,

Paris, January 2, 1889.

M. GOBLET, when I saw him this afternoon at the Ministry for Foreign Affairs, requested me to convey to your Lordship his sincere thanks for the assurance that Her Majesty's Government has not yet expressed any opinion on the subject of the demands which, as reported in my despatch No. 613 of the 20th ultimo, are stated by his Excellency to have been recently put forward by the Government of Italy in reference to the opening of new Italian schools at Tunis.

His Excellency then read to me the last despatches received by him from M. Massicault and M. Mariani on this subject; but, before doing so, he entered into a general statement of the previous history of the case.

In reply to the first protest made by the Italian Government against the issue of the Beylical Decree which has given rise to all these misunderstandings, he had explained to General Menabrea that the measure was intended only to meet certain general requirements; and that, in the application of it, every care would be taken to avoid interference with any rights or privileges possessed under the Capitulations by foreign schools established on Tunisian territory. With this explanation he coupled a proposal that arrangements for that purpose in reference to the Italian schools should be left by the two Governments to their respective Representatives at Tunis.

My Italian colleague, whose instructions did not authorize him to accept this proposal, went to Rome to discuss it with Signor Crispi; and, on his return to Paris, he received from M. Goblet a written declaration exempting altogether from the operation of the Decree the schools on behalf of which his Government had protested against it, as an attempted infraction of the Capitulations.

With that declaration, however, the Italian Government was not satisfied, and General Menabrea was instructed to demand a further declaration extending the exemption to all schools which the Government of Italy might at any future time see fit to establish upon Tunisian territory, without reference to the public or private character of them.

This additional declaration M. Goblet declined to give him. General Menabrea then said that his last word on this subject had been spoken, and his instructions were exhausted; that the matter was thus left on a very unsatisfactory footing, but that he trusted to the healing influences of time, and the excellent personal relations existing between Signor Berio and M. Massicault to prevent it from being productive of further complications between the two Governments.

To this M. Goblet replied that no such complications could possibly arise unless the Italian Government deliberately sought to bring them about, by opening new schools without previous notice, or on a footing to which the French Government would be compelled to take objection; but that even then, he was convinced there could be no occasion for any serious misunderstanding, if only the Italian Government would give to Signor Berio the latitude he had already given to M. Massicault.

His Excellency appears to have remained under the impression that the suggestion was approved by General Menabrea, from whom he has not since received any communication about Tunisian affairs; and, in connection with M. Goblet's statement of his impression on this point, I may mention that when, a few days ago, I questioned my Italian colleague about some of the Italian demands mentioned in the communication from M. Massicault, to which reference is made in my above-mentioned despatch No. 613 of the 20th ultimo, General Menabrea replied that they related to matters which were being treated directly between the Italian Consul and the French Resident at Tunis, with the exact nature of which he was not even acquainted.

The intercourse between the French and Italian Governments about Tunisian affairs was on this footing, when M. Massicault suddenly reported that the official in charge of the administration of the Government schools at Rome had arrived at Tunis with a body of official teachers, and that the Italian Consul was engaged in the purchase of land for the establishment of Italian State schools on Tunisian territory. M. Massicault having received from Signor Berio no communication in reference to these proceedings, inquired whether any such communication had been received by the French Government from the Italian Ambassador at Paris; and the answer being in the negative, he questioned Signor Berio about them. The Italian Consul replied that, much to his personal regret, he was forbidden by his instructions to make any communication to the French Resident on the subject of these preparations, which he was further instructed to complete with the utmost possible expedition. He added, however, that, notwithstanding his instructions, he would take it on himself to give M. Massicault at least forty-eight hours private notice of the opening of the new schools.

On learning this, M. Goblet sought an interview with General Menabrea, from whom he requested an explanation of Signor Berio's statement. The General replied that he had no explanation to give; that all matters relating to Italian interests at Tunis were now in the hands of the Italian Consul there, and that his Government was not in communication with him on the subject of them.

M. Goblet then represented to my German and Austrian colleagues the peculiar position in which the French Government was placed by the refusal of the Italian Consul to communicate with the French Resident at Tunis, and of the Italian Ambassador to communicate with himself, about proceedings of which it could not remain a passive spectator.

His Excellency attributed to the effect of these representations the fact that, shortly afterwards, Signor Berio came to M. Massicault with the satisfactory announcement that he had just been authorized to discuss with him all arrangements relative to the status of the new schools which his Government proposed to open at Tunis, and that *carte blanche* had been given him to conclude these arrangements in concert with the Resident. M. Massicault at once drafted as a basis of discussion the five Articles to which reference is made in my above-mentioned despatch.

Signor Berio, who seemed personally disposed to adopt them with but slight modifications, was subsequently instructed to formulate the demands also referred to in that despatch; and in reply to those demands, which were alleged to have received the special approval and support of Her Majesty's Government, M. Massicault was authorized to submit to him revised proposals for further joint consideration.

Some time having elapsed without any reply to this last communication, M. Massicault asked Signor Berio when he might expect to receive one. Signor Berio replied that he had been blamed by his Government for misinterpreting and exceeding his instructions, and that he was again under strict orders not to hold any further communication with the French Resident on the subject of their recent Conferences.

M. Massicault's report of this conversation was read to me by M. Goblet, and it certainly conveys the impression that Signor Berio did not disguise from M. Massicault

either his surprise and mortification at the nature of his latest instructions, or his belief that, had the matter been left in his hands, it would have been amicably settled at once.

On receipt of this report, M. Goblet again referred to General Menabrea for explanations, which the General again declared he was unable to give, as the matter was entirely out of his hands. M. Mariani was consequently instructed to request explanations from Signor Crispi. M. Goblet read me M. Mariani's report of the interview he had for this purpose with the Italian Prime Minister, who observed to him in the first place that the Government of Italy owes no account to the French Government of any arrangements it may see fit to make in reference to the requirements of its own subjects at Tunis, and that, consequently, there was, in his opinion, no occasion for communications between the two Governments on the subject of such arrangements. In the next place, Signor Crispi declared that M. Goblet had already been informed by General Menabrea that the Italian Government could not allow such arrangements to be discussed and settled by the local Agents of the two Governments, as if they were matters to which it attached no great importance, and, in confirmation of this statement, he read to M. Mariani part of a despatch from General Menabrea, reporting his rejection of a proposal by M. Goblet to leave the settlement of all such questions to the Italian Consul and French Resident at Tunis. M. Mariani, however, informed M. Goblet that the date of this despatch from General Menabrea was not mentioned by Signor Crispi. M. Mariani's report was read by M. Goblet to General Menabrea, who expressed great astonishment at the language attributed by it to Signor Crispi, and observed that the communication from himself, which had been quoted by the Italian Prime Minister, must be one he had written months ago, just after his return from Rome, and the conversation which then took place between himself and M. Goblet, in relation to circumstances wholly different from those which form the subject of the representations made, through M. Mariani, to the Government of Italy.

After giving me the account of the failure of his efforts to come to an understanding with the Italian Government as to the relative position of France and Italy at Tunis, M. Goblet observed that the condition in which it leaves the relations between the two countries appeared to him extremely critical, and the more so because the arrangements, which the Italian Government declines to discuss for the establishment by it of new schools at Tunis, are in the meanwhile being actively continued by the Italian Consul under instructions from Rome.

In reply to my question whether he had made any further representation on this subject to my German colleague, his Excellency said that as Count Münster had only just returned to Paris, he had not yet had any opportunity of doing so; but that when he met the Count at the President's reception of the Diplomatic Body yesterday morning, he intimated to him his wish for an early interview on the subject of Tunisian affairs.

I asked M. Goblet what would be the action of his Government in the event, which he seemed to anticipate, of the new Italian schools being opened without further reference to the Government of France or the Beylical authorities.

His Excellency replied that, under a Tunisian Law from which the Capitulations provided no exemption, all persons concerned in opening unauthorized schools upon Tunisian territory would be liable to imprisonment; and that in the event supposed the French Government would be compelled, however reluctantly, to enforce the arrest of such persons by the Beylical authority, and the forcible suppression of the schools; but that if recourse to such measures, the necessity for which he had done his utmost to avert, should involve a complete rupture of the relations between France and Italy, it was not with the French Government that the responsibility could rest.

I have, &c.
(Signed) LYTTON.

No. 76.

The Earl of Lytton to the Marquis of Salisbury.—(Received January 5.)

(No. 4. Confidential.)

My Lord,

Paris, January 3, 1889.

IN the course of the conversation, which I have fully reported in my accompanying despatch No. 2, Confidential, of yesterday's date, M. Goblet mentioned as an illustration of many similar attempts to misrepresent the conduct of the French Government and excite animosity against it, a statement which had, he said, been recently circulated throughout Europe by Signor Crispi, that the Beylical Government, acting under French instigation, had

compelled, or was about to compel, all foreign subjects in its employ to choose between the adoption of French nationality or dismissal from their employment.

His Excellency said that for this statement, which the Italian Government had deliberately circulated without any attempt to verify it by previous reference to the Government of France, there was not an atom of foundation beyond the fact that, in view of the new Tariff Regulations, it had been deemed expedient not to dismiss, but simply to transfer to other Departments of the Tunisian administration some Italians previously employed in the Custom-house.

I have reason to believe that the same language has been held by M. Goblet, in reply to certain inquiries addressed to him by my Austrian colleague, in consequence of representations made to the Austrian by the Italian Government on this subject.

Information reached me, however, this morning in a private letter from Mr. Consul Ricketts, that the Maltese subjects of Her Majesty in the service of the Tunisian Government had been threatened with dismissal unless they adopted French nationality.

This information was so positive, and, at the same time, so irreconcilable with the equally positive statement yesterday made to me by M. Goblet, that, on receipt of it, I sent at once to the French Foreign Office to ascertain from M. Charmes whether the correctness of it was still denied by the French Government.

M. Charmes declares most categorically that the report is absolutely without foundation. The first that was heard of it was from a communication on the subject made to M. Goblet some ten days ago by General Menabrea. On receiving this communication, the French Resident in Tunis, M. Massicault, was asked by telegraph for explanations, and he replied that he was entirely ignorant of any action that could have given rise to such a report. It was true that a copyist of Italian origin, in the employment of the Registrar of one of the Tribunals, had been dismissed; but he was an employé of the Registrar himself, and not in the service of the Bey. Two Frenchmen had been at the same time dismissed by the Registrar in question, who, from motives of economy, was reducing his staff. M. Charmes said that he could only suppose that this incident, and that to which I have referred above with regard to the transfer of Italian Customs officers, had been magnified into a general dismissal of all foreigners but Frenchmen in the service of the Bey.

In telegraphing to your Lordship the substance of this despatch, I have suggested that Her Majesty's Consul in Tunis should be asked to report on what his information is founded, as it is difficult to reconcile his statement of the facts with the express denial given to them by the French Foreign Office.

I have, &c.
(Signed) LYTTON.

No. 77.

Memorandum communicated by Count Leyden to the Marquis of Salisbury, January 5, 1889.

(Confidential.)

London, January 3, 1889.

FRENCH newspapers mention that considerable works and preparations for fortifications on land and on sea are presently undertaken by their naval authorities at the port of Bizerta.

The Imperial Government hopes that Her Majesty's Government will consider these facts, and, as on previous occasions, make friendly representations at Paris against the erection of Bizerta into a fortified port.

The Imperial Government intends to direct the attention of the French Government in an amicable and friendly way upon the subject, and to point out that the fortifications of Bizerta could not be viewed with indifference by Italy. Count Münster will also explain that such action on the part of France would be equivalent to "narguer les Italiens," and contain a provocation leading eventually to complications which every European Power is seeking to avoid.

Count Münster will be instructed to confer with Her Majesty's Ambassador at Paris on the subject, as the Imperial Government presumes that the British Government, considering the importance of the Bizerta question both for Italy and England, will be found ready to instruct Lord Lytton to dissuade in a friendly spirit at Paris from further action.

The Tunis affairs having given rise to various incidents, beginning with that of Massawa, which was originated by France, the Imperial Government has noticed with pleasure that France has desisted from following up the question of the naturalization of Italian municipal employes residing in Tunis. Being further aware of the interest the

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British Government are taking in the maintenance of European peace, the Imperial Government trusts that they will lend their attention to the important character of the Bizerta question, and to the upholding of the *status quo* in the Mediterranean.

No. 78.

Consul Ricketts to the Marquis of Salisbury.—(Received January 6.)

(Telegraphic.)

Tunis, January 6, 1889.

YOUR Lordship's telegram received yesterday morning. I will reply by post Wednesday.

No. 79.

The Marquis of Salisbury to Sir A. Paget.

(No. 1.)

(Telegraphic.)

Foreign Office, January 6, 1889, 7 P.M.

THE affair of the Tunis schools threatens disturbance. The original fault was with the French; but they have made every concession, and now it appears to me almost evident that Crispi is deliberately provoking a rupture. I cannot imagine that such an event would be welcome to the Austrian Government. Ask Minister for Foreign Affairs if they have any information to the above effect, and, if so, whether they are taking any action in consequence.

No. 80.

The Marquis of Salisbury to Sir A. Paget.

(No. 1. Ext. 1.)

Sir,

Foreign Office, January 6, 1889.

I HAVE to state to your Excellency that the question of schools in Tunis, with which you are acquainted from the printed sections, threatens to create difficulties. Whilst the fault originally lay with the French they have since made every concession, and it would now appear almost certainly as if Signor Crispi were deliberately forcing on a rupture. It cannot be conceived that such a contingency would be welcome to the Austro-Hungarian Government.

I have, therefore, to request your Excellency to inquire of the Minister for Foreign Affairs whether the Austro-Hungarian Government are in possession of any information to the above effect, and, if so, whether they are taking any action in consequence.

I have this day telegraphed the substance of the foregoing to your Excellency.

I am, &c.

(Signed) SALISBURY.

No. 81.

The Earl of Lytton to the Marquis of Salisbury.—(Received January 7.)

(No. 7.)

My Lord,

Paris, January 6, 1889.

WITH reference to your Lordship's despatch No. 12 of yesterday, I have the honour to transmit herewith to your Lordship a paragraph from the "Temps" newspaper, in which it is stated that the French Resident at Tunis had informed the Representatives of Spain, Russia, and Germany that the rumour of an intention on the part of the Tunisian Government to dismiss from its service all the officials who did not adopt French nationality was a pure invention, and arose apparently from the fact that the Government had decided to reserve for Frenchmen the posts of "Receveur des Douanes" in the ports of the Regency from which Tunisian produce would be exported with certificates of origin if the proposed Franco-Tunisian Customs Convention is adopted by the French Parliament.

I have, &c.

(Signed) LYTTON.

Inclosure in No. 81.

Extract from "Le Temps" of January 6, 1889.

TUNISIE.—Hier, à Tunis, à la réception hebdomadaire du Corps Consulaire, le Résident-Général a reçu le Chargé d'Affaires d'Espagne et les Consuls de Russie et d'Allemagne.

M. Massicault leur a confirmé ce qu'il avait déjà eu l'occasion de dire aux Consuls d'Autriche-Hongrie et d'Italie au sujet des intentions prêtées au Gouvernement Tunisien d'exclure de ces services tous les agents qui ne se feraient pas nationaliser Français.

Le Résident-Général a ajouté que le bruit qu'une pareille mesure aurait été prise est de pure invention, et semblerait provenir de ce fait que le Gouvernement a décidé de réserver à des agents Français les emplois de Receveur des Douanes dans les ports de la Régence, d'où les produits Tunisiens seraient expédiés avec des certificats d'origine, si le projet de Convention Douanière Franco-Tunisienne soumis au Parlement Français est adopté.

No. 82.

Sir A. Paget to the Marquis of Salisbury.—(Received January 7, 5.15 P.M.)

(No. 1.)

(Telegraphic.)

Vienna, January 7, 1889, 4.20 P.M.

YOUR telegram No. 1.

Count Kálnoky has no confirmation of Tunis schools affair becoming threatening, and believes that it remains *in statu quo*.

He has always given counsels of moderation in Paris and Rome, and advised both Governments to avoid raising trifling and irritating questions which might lead to serious consequences.

No. 83.

Consul Ricketts to the Marquis of Salisbury.—(Received January 8.)

(No. 1.)

My Lord,

Tunis, January 2, 1889.

I HAVE been informed by my Italian colleague that he has received instructions from his Government to protest against any Italian subjects being dismissed without cause from the Bey's service, his protest being based on the Vth Article of 1875, which states that all subjects shall be treated on the same footing.

Should your Lordship consider this section of the Treaty to be applicable to the case transmitted by me on the 28th ultimo, and think it advisable, I will forward a similar protest on behalf of the Maltese at Monastir, against the authorities of that place, to the Resident, or on behalf of any other of our subjects who may have cause to complain of such treatment.

I have, &c.

(Signed) G. T. RICKETTS.

P.S.—A Decree on this subject was written out, I am told, and ready for publication, but was withdrawn on a telegram having been received from Paris.

G. T. R.

No. 84.

The Marquis of Salisbury to M. Catalani.

M. le Chargé d'Affaires,

Foreign Office, January 8, 1889.

I HAVE the honour to acknowledge the receipt of your communication of the 16th ultimo in regard to real property in Tunis.

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I have to acquaint you, in reply, that, in view of the uncertainty of the facts, Her Majesty's Consul in Tunis has been instructed to report fully on the case.

I have, &c.
(Signed) SALISBURY.

No. 85.

M. Catalani to the Marquis of Salisbury.—(Received January 9.)

(Confidential.)

My Lord,

20, Grosvenor Square, January 7, 1889.

THE French Ambassador at Rome has communicated to the Italian Government a Decree of the Bey of Tunis concerning the competence of the French Tribunals to pronounce judgment on disputed matters of administration pending between the Tunisian Government and foreign subjects in Tunis ("Contentieux Administratif").

This point, as far as Italy is concerned, was expressly mentioned in Article VI of the Protocol of the 25th January, 1884; but, according to the aforesaid Protocol, it should have been dealt with in accordance with the Italian Law sanctioned on the 20th March, 1865, and should have been applied with the consent of Italy.

It should not, moreover, have deviated from the above-mentioned Law, in as far as that Law concerns the right of applying to the Court of Cassation.

The Italian Government, therefore, have replied to the French Ambassador that the Decree in question could not have any effect on Italian subjects in Tunis.

In pursuance of the instructions I have received from my Government, I have the honour to beg your Lordship to let me know whether the British Government have received a similar communication from France, and what reply they have made or intend making thereto.

Whilst thanking your Lordship for the answer that you may be pleased to give me, I have, &c.

(Signed) T. CATALANI.

No. 86.

Sir A. Paget to the Marquis of Salisbury.—(Received January 10.)

(No. 5.)

My Lord,

Vienna, January 7, 1889.

I HAD the honour to receive last evening your Lordship's telegram No. 1 of yesterday's date, and I called this morning on Count Kálnoky in order to ascertain, in compliance with your Lordship's instructions, whether his Excellency had received any information tending to confirm your Lordship's impression, that the affair of the schools in Tunis was becoming threatening of disturbance.

I acquainted Count Kálnoky with your Lordship's opinion that the original fault was with the French, but that they had made every concession, and that it now appeared to your Lordship almost evident that Signor Crispi was deliberately provoking a rupture.

Count Kálnoky stated, in reply, that no information had reached him which supported or confirmed that which had been received by your Lordship; that, on the contrary, according to his latest intelligence from Rome and Paris, he believed that the question was at present *in statu quo*, namely, that each Government had established its own position in the conflict; the French Government, although waiving the right of applying the Decree concerning inspection to existing schools, reserved, nevertheless, that of giving it effect in respect of any new schools which might be established; while the Italian Government still maintain its ground of not admitting the right of inspection either of the existing schools, or of those which might be established in the future, but had abandoned the idea, which had apparently at one time been entertained, of establishing any new schools at present.

When this project, Count Kálnoky continued, had first been mooted, he had strongly remonstrated with the Italian Government (whose rights derived from its special arrangements with France at the time when Tunis was taken under French protection he did not contest) against the impolicy of reopening a question which had just been set at rest. In fact, he said, he had always given counsels of moderation both in Paris and Rome, and advised both Governments to avoid raising trifling and irritating questions

which might possibly lead to serious consequences. His Excellency stated that the German Government had spoken in the same sense, and to this, as well as to the same advice coming probably from your Lordship, he attributed the assurance given by the Italian Government, that the idea of establishing new schools had for the present been abandoned.

The term "for the present," his Excellency added, was, of course, a very elastic expression, and he did not know how long Signor Crispi meant to abide by it. There was, unfortunately, a great deal of irritation and bad feeling on both sides, but he repeated that, according to his latest advices from Paris and Rome, there was nothing to make him think that the question was now about to be reopened.

I have, &c.
(Signed) A. PAGET.

No. 87.

Memorandum on the Lake and Town of Bizerta (or Benzert).—(Communicated by Admiralty, January 10.)

Town.—Bizerta is only 36 miles from Tunis by land. The situation of the town is extremely picturesque, being built on each side of the canal which connects the lake with the sea, and on an island in the middle of it, principally occupied by Europeans, and joined to the mainland on either side by substantial bridges.

Anchorage.—Vessels anchor in Bizerta Road, in 8 or 9 fathoms, over a bottom of sand and weeds, 6 cables north-east of the town, sheltered from all westerly winds, but exposed to those from the north and east. The bottom is indifferent holding ground.

Lake Tinja.*—The important feature of Bizerta is Lake Tinja, which might be made one of the finest harbours, and would then be the most important strategical position in the Mediterranean.

Its length from east to west is about 8 miles, and its width $5\frac{1}{2}$; but the shallow portion which passes through the town is less than 1 mile in length, with a depth of from 2 to 10 feet. Beyond, it widens out, and has a depth equal to that of the lake, from 5 to 7 fathoms.

A comparatively slight expenditure would be required to convert this lake into a perfectly land-locked harbour, containing 50 square miles of anchorage for the largest vessels afloat.

Fortifications.—The town (which is $1\frac{1}{2}$ miles in circumference) is surrounded by a wall, and defended by a citadel and several batteries. The wall is of polygonal trace, about 33 feet in height, and flanked by towers or bastions placed at the angles.

The principal of these bastions is called Bordj-Sidi-el-Hadid, and defends the north side of the town, which is also protected by the "Kasbah," or citadel, built on the north of the canal which connects the Mediterranean with the lake.

Opposite the "Kasbah" is a small fort named Bordj-el-Zen-Zela, from whence started formerly the chain which closed the entrance to the port.

The advanced work, Sidi-Salem, is situated on the north of the town.

There are four coast batteries.

These defences are, for the most part, in ruins, according to a Report of April 1887; new works are, however, projected.

Inauguration of Works for forming a Naval Station and Harbour of Refuge.—In 1886, Admiral Aube was said to be very anxious that a Naval Station, with a basin, coal depôt, and other facilities for refitting a squadron, should be established on the Algerian coast; if money is granted, it is hoped that Bizerta will supply these wants. In order to obtain a magnificent harbour, with a depth of from 10 to 40 fathoms, it would only be necessary to cut through a narrow strip of sand, some 20 inches higher than the sea, at a point not exceeding 250 yards in width; the cost would be about 800,000*l.* Bizerta is one of the proposed harbours of refuge for torpedo boats.

The preliminary works for forming a port at Bizerta have been commenced; the estimated cost is 120,000*l.*

During the month of October 1886, French engineers were surveying the lands belonging to native proprietors in the vicinity of Bizerta Lake. They were also engaged in tracing the canal which is to connect the lake with the sea.

* Known also as Lake Benzert.

Captain St. Clair, R.N., in April 1887, reported that it was hoped that the entrance channel would soon be deepened to 15 feet. The sides were to be lined with concrete blocks. No torpedo defence exists at present.

In the beginning of 1888, the channel from the sea to the deep-water lake had attained the depth of 10 feet.

Progress of Works, 1887.—Consul Sandwith in a Report to the Foreign Office of the 27th June, 1887, states: "Sixty men of the French navy, under the command of a captain of a torpedo vessel stationed there, have been engaged in deepening the present channel so as to allow small craft to enter the lake. Two dredges were employed for the purpose, and the works were carried on under the direction of a staff of engineers. The bridge on seven arches at the lake end of the channel was to have the three centre buttresses removed, so as to allow of a passage of 72 feet wide, to be covered by a sliding wooden bridge. The old mole had been carried out 130 yards further."

At the time of this Report the work had suddenly been suspended, but in a following Report of the 19th November, 1887, it was stated that the work had been resumed.

The Department of "Ponts et Chaussées" were engaged in making borings along the line where the new and broad channel is to communicate with the sea.

Garrison.—A "batterie de forteresse" was quartered here. The number of troops has recently been reduced to one company of artillery.

The canal leading from Lake Bizerta to the sea had, in September 1888, attained a depth of 3 to 4 metres. The breakwater, begun some time previously, was, at that date, still in a bad state.

One torpedo boat of the French navy arrived on the 26th September, 1888. Another, with a French crew, built for the Roumanian Government, put in to coal.

On the 29th October, 1888, the French transport "Isère" arrived at Bizerta and discharged 200 tons of coal, one barge full of iron, some torpedoes, and machinery for their manufacture.

At Toulon, orders have been received to prepare a stock of coal "d'Anzin" for the torpedo boats at Bizerta, and a floating dock for the latter is to be sent out shortly. This dock is being finished in the shops of Trois-Lille.

January 10, 1889.

No. 88.

(A.)

Memorandum by Sir E. Hertslet on Rumoured Intention of the French to form a Port at Bizerta.

IN a note which Lord Lyons addressed to the French Minister for Foreign Affairs on the 14th May, 1881, on the affairs of Tunis, the following passage occurs:—

"Your Excellency had a short time before stated to me that the French Government had certainly no intention of undertaking the work of forming a port at Bizerta, although private French enterprise might possibly at some future date be devoted to making improvements there for the purpose of a commercial harbour."

On the 16th of the same month that Minister returned a reply to that note, in which, with reference to Bizerta, he said:—

"Your Excellency remembers that on several occasions in my conversations with you I repudiated the idea of the conquest or annexation to France of any part of Tunisian territory. I have no difficulty in repeating here what I have already told you. I can reiterate to you that our arrangements with the Bey include no stipulation which is not in conformity with the assurances which I have given you. I reply, therefore, explicitly, and in a manner which I cannot doubt will appear conclusive to you, to your observations respecting the port of Bizerta."

Lord Lyons to M. Barthélemy de St. Hilaire, May 14, 1881.
"Tunis No. 6 (1881)," p. 41.

Lord Lyons, May 5, 1881.
"Tunis No. 2 (1881)," p. 78.

M. Barthélemy de St. Hilaire, May 16, 1881.
"Tunis No. 2 (1881)," p. 46.

"We have no more desire to annex Bizerta than any other part of Tunis. It is doubtless possible, as I spontaneously pointed out to you, that we may be inclined to favour the commercial development of this port, and to encourage the attempts which may be made in the very interest of the Regency to ameliorate its material conditions."

"But whatever may be the enterprises which private Companies may attempt at Bizerta, it by no means enters into our calculations to expend at present the enormous sums and to begin the gigantic works necessary to transform this position into a military port that could serve as a base of naval operations."

"There, as in other parts of the Regency, the action of France will only be exerted with a view to such *pacific improvements as will benefit other nations as well as ourselves*. The only conquest which we meditate is that of civilization in a still too backward country, and I am confident that England, in a work advantageous to all interests, will afford us the support of the sincere sympathies which we consider ourselves particularly entitled to expect from her, because we experience the same feelings towards her."

On the 20th of that month Lord Granville addressed a long note to the French Ambassador in London on the subject of Tunis, and, with reference to the port of Bizerta, he said:—

"Her Majesty's Government observe, M. l'Ambassadeur, that M. Barthélemy St. Hilaire repudiates all idea of annexation by France of the port of Bizerta, or any port whatever of Tunis; and although he indicates the possibility of encouraging the improvement of the port by private enterprise, he declares that it in no way enters into the projects of the French Government to expend, at the present time, the enormous sums and to commence the immense works necessary for making this position a military port. I do not think it necessary, M. l'Ambassadeur, to enter into the question of the possible value of Bizerta as a commercial port further than to observe that if the channel from the sea to the lake is deepened, so as to give access for large vessels, British ships will have, under the Treaty of 1875, a right to use it without being subjected to any higher dues than French or Tunisian vessels."

It will not have escaped attention that the French Minister, in his note to Lord Lyons of the 16th May, 1881, only went so far as to assure his Excellency that it did not enter into the calculations of the French Government to expend "at present" the enormous sums and to begin the gigantic works necessary to transform this position (Bizerta) into a military port that could serve as a base of naval operations.

In November 1883 a telegram was received from Mr. Reade, announcing that a Decree of the Bey of Tunis had been issued, declaring the City of Tunis and sixteen other places, including Bizerta, to be military strongholds.

This telegram was sent to Lord Lyons for observations, and, in his reply, he said, the measure had no doubt been taken with a view to assimilating the system in Tunis to that in force in France; but he pointed out that Mr. Reade's telegram did not say whether the Bey's Decree, or any other legal enactments in the Regency, prescribed special Regulations applicable to such places in France; but no remonstrance on the subject was addressed to the French Government.

In November 1886, Consul Sandwith called attention to the fact that French engineers were engaged in tracing a passage for a canal between the Lake of Bizerta and the sea; and a copy of his despatch, reporting the fact, was sent to Lord Lyons, but without any observations.

Count Corti was also informed of what the French were doing there, and in a note which Lord Iddesleigh addressed to him on the 27th November, 1886, his Excellency's attention was called to the note addressed to Her Majesty's Ambassador at Paris by M. Barthélemy de St. Hilaire on the 16th May, 1881, in which, it was pointed out, the latter disclaimed any intention on the part of the French Government to convert Bizerta into a military port.

On the 10th December, 1886, the Admiralty inquired whether any understanding existed between this country and France respecting Bizerta beyond that implied in Lord Granville's official despatches in 1881, when they were told that there was nothing further.

It may not be considered out of place to mention that the Treaty between France and Tunis of the 12th May, 1881, contains this stipulation:—

"ARTICLE II.

"With a view of facilitating the accomplishment by the French Republic of the measures which it will have to take in order to attain the end proposed by the High

[403]

Lord Granville to M. Challemlacour, May 20, 1881.
"Tunis No. 6 (1881)," p. 55.

Admiralty, December 10, 1886.
To Admiralty, December 29, 1886.
"Tunis No. 2 (1881)."

Contracting Parties, His Highness the Bey of Tunis consents that the French military authorities should occupy the points which they may deem necessary to insure the re-establishment of order and the security of the frontiers and of the coast."

But the Article goes on to say:—

"This occupation shall cease when the French and Tunisian military authorities shall have recognized by common consent that the Local Administration is capable of guaranteeing the maintenance of order."

(Signed) E. HERTSLET.

Foreign Office, January 10, 1889.

"Tunis
No. 6
(1881),"
p. 53.

No. 89.

The Marquis of Salisbury to the Earl of Lytton.

(No. 17.)

My Lord,

Foreign Office, January 10, 1889.

I TRANSMIT to your Excellency the accompanying copy of a despatch from Her Majesty's Consul in Tunis,* inclosing copy of a Decree of the 27th November, 1888, published by the order of His Highness the Bey of Tunis, giving powers to the French Tribunals to hear and decide on suits brought by private persons against the Administration.

I have to make the following observations upon the matter.

Her Majesty's Government have a right to press claims of British subjects against the Bey diplomatically. But they have agreed that since the establishment of the French Protectorate the French Resident is to be the channel of communication between foreign Governments and the Bey.

The effect of the present Decree is to compel all claimants to sue the Beylical Government before the French Tribunals under certain restrictions and conditions.

This new measure is quite unconnected with the arrangement under which British Consular jurisdiction over British subjects was transferred to the French Tribunals, and in view of existing Treaty rights, it is a grave question whether the Decree can be held obligatory on foreign Powers without their assent. At the same time, it would be an advantage to be able to refer the claims of British subjects against the Tunisian Government to the French Tribunals, provided that the procedure were substantially the same as that followed in France with respect to suits against the Government, and that the right of appeal were given to the fullest extent allowed in other cases.

In conclusion, I have to request your Excellency to consult M. Clunet as to whether the Decree as it stands falls short of the remedies which exist by law in France in such cases, and whether the right of appeal is not unduly restricted.

I am, &c.
(Signed) SALISBURY.

No. 90.

Sir A. Paget to the Marquis of Salisbury.—(Received January 11, 7 P.M.)

(No. 2.)

(Telegraphic.)

Vienna, January 11, 1889, 5.55 P.M.

IN consequence of telegram of Lord Lytton, I have inquired of Minister for Foreign Affairs, and am informed that no report has been received from Austrian Ambassador at Paris relative to complaint of French Government respecting opening of new Italian schools in Tunis, and, as far as is known here, question remains as reported in my despatch No. 5 of the 7th instant.

(Repeated to Paris.)

No. 91.

The Marquis of Salisbury to the Earl of Lytton.

(No. 19.)

My Lord,

Foreign Office, January 11, 1889.

I ASKED the French Ambassador to-day whether there was any truth in the story that the French Government had determined to construct a fortified arsenal at Bizerta, observing that such a proceeding was one to which we should have very serious objection.

His Excellency replied that he knew of nothing of the kind, and that such a thing could not be done without a vote being previously taken in Parliament, and therefore he discredited the story altogether. He said that he had seen in the papers that there was a project for cleaning the canal which joined the outer harbour with the inner lake, and it was possible that some measure of this character was in contemplation, but that, as far as he knew, no idea of fortification had been entertained.

I am, &c.
(Signed) SALISBURY.

No. 92.

The Marquis of Salisbury to the Earl of Lytton.

(No. 20.)

My Lord,

Foreign Office, January 11, 1889.

THE French Ambassador called my attention to-day to the report which had been made to several of the Courts of Europe, to the effect that the Tunisian Government had resolved to dismiss all foreigners from its service unless they would adopt French nationality. This, his Excellency said, was a pure invention, without the slightest foundation of truth. But he was directed to express the surprise of M. Goblet, that Consul Ricketts should have conveyed the information as an undoubted fact to your Excellency in a letter which you read to M. Goblet.

I replied that the transmission of inaccurate Reports by our Agents was a matter of much more serious concern to us than it could be to the French Government. In this case, Consul Ricketts appeared to have relied on the Report of the Vice-Consul at Monastir, and several days ago I had directed that that officer should be asked for an explanation of the circumstances under which he had been induced to make so unfounded a Report to Her Majesty's Government.

I am, &c.
(Signed) SALISBURY.

No. 93.

The Marquis of Salisbury to the Earl of Lytton.

(No. 21. Confidential.)

My Lord,

Foreign Office, January 14, 1889.

I TRANSMIT, for your Excellency's information, the accompanying copy of a Memorandum that has been communicated to me by the German Chargé d'Affaires at this Court,* inviting Her Majesty's Government to take combined action with the German Government in making a representation to the French Government in connection with the supposed intention of the latter to erect Bizerta into a fortified port.

I have stated to Count Leyden in reply that, in the judgment of Her Majesty's Government and according to their present information, no step has been taken by the French Government which would justify any joint action such as that proposed in his Memorandum, which might easily be misconstrued as a menace; but that they will take an opportunity of making a friendly representation to the Foreign Secretary when occasion serves.

My despatch No. 19 of to-day's date will inform your Excellency that I have to-day made a representation to the French Ambassador on this subject, and have received from him assurances which, if he is well informed, are satisfactory. There would, however, be no objection to your Excellency selecting your own time and opportunity

for reverting to the subject, and renewing the inquiries made by your predecessor; but any concert on this matter with the German Ambassador would not be desirable.

I am, &c.
(Signed) SALISBURY.

No. 94.

The Marquis of Salisbury to Count Hatzfeldt.

M. l'Ambassadeur,
HER Majesty's Government have had under their consideration the communication made to me by Count Leyden on the 3rd instant with reference to the proposal for a joint representation to the French Government on the subject of the supposed intention of the latter to erect Bizerta into a fortified port. I have now the honour to state that, in the judgment of Her Majesty's Government, and according to their present information, no step has been taken by the French Government that would justify any joint action, which might easily be misconstrued as a menace. Her Majesty's Ambassador at Paris will, however, be instructed to take an opportunity of making a friendly representation in the matter.

I have, &c.
(Signed) SALISBURY.

No. 95.

Foreign Office to Consul Ricketts.

(No. 6.)
Sir,
I AM directed by the Marquis of Salisbury to acknowledge the receipt of your despatch No. 1 of the 2nd instant.

I am to observe that the Bey of Tunis has the right to dismiss from his employment any foreigners who do not give him satisfaction, or with whose services he wishes to dispense for purposes of economy, reorganization, or for any other reason, provided he adheres to the terms of his contract with them.

Her Majesty's Government have no reason to believe that after the discussion that has taken place and the assurances which have been given by the French Government, any British subjects will be dismissed under circumstances which would justify a remonstrance on the part of Her Majesty's Government on the ground of a violation of the Article of the Italian Treaty to which you refer.

I am to instruct you, therefore, to take no action in the sense that you suggest.

I am, &c.
(Signed) JULIAN PAUNCEFOTE.

No. 96.

Foreign Office to Admiralty.

(Confidential.)
Sir,
I AM directed by the Marquis of Salisbury to state that there is need of communicating to Her Majesty's Consul in Tunis confidential and important correspondence which cannot be intrusted to the foreign post, and which there is no means of sending by British ships.

I am to request, therefore, that you will move the Lords Commissioners of the Admiralty to give directions to the Naval Officer commanding at Malta to forward, at his early convenience, by one of Her Majesty's ships, a bag of despatches, which will shortly be sent to him by closed English mail for Mr. Ricketts.

I am to add that, having regard to the correspondence that has taken place in regard to the works being carried on at Bizerta, it appears to his Lordship that the visit of one of Her Majesty's ships to Tunisian waters at the present time would be desirable, with a view to obtaining, if possible, further information on the subject.

I am, &c.
(Signed) JULIAN PAUNCEFOTE.

No. 97.

Consul Ricketts to the Marquis of Salisbury.—(Received January 15.)

(No. 2. Confidential.)
My Lord,

Tunis, January 8, 1889.

I AM told that my German colleague, M. Eckardt, having acted in the question of the schools at Tunis in a manner which was not approved of by his Government, has been recalled. He has been ordered to proceed to Marseilles, which is looked upon as an inferior post.

I have, &c.
(Signed) G. T. RICKETTS.

No. 98.

Consul Ricketts to the Marquis of Salisbury.—(Received January 15.)

(No. 3.)

My Lord,

Tunis, January 8, 1889.

ON the 5th instant I received a telegram from your Lordship in reference to the statement made by the Consular Agent of Monastir, to the effect that all employés of the Customs had received orders either to quit the Bey's service or to assume French nationality.

The grounds on which this statement was founded are explained in a despatch dated the 2nd January just received from Mr. Portelli, a copy of which is herewith inclosed in translation.

On a reference to that despatch, it will be observed that the Inspector of the Customs of Monastir having summoned the employés, stated that he was not aware that all had been dismissed, and assured them that only the "Receveurs" would be ordered to quit the service of the Bey. On the other hand, the "Receveur" of Monastir, an Italian, maintains that the Inspector not only told him, but made him read over an order given in writing, showing that all employed would be removed, without any distinction, and this he had communicated to those under him. The question then is: whose statement is most worthy of credence, that of the Inspector or that of the Receiver?

On this point it is somewhat difficult to form an exact opinion. One thing, however, is certain, that this matter has been much talked of of late, and on the 23rd November last an article appeared in "La Tunisie," calling on the Resident to dismiss all the Italians, eleven in number, from the Customs of Tunis, if they did not change their nationality.

An extract from that paper in reference to this matter is herewith sent.

When also it is known that the French Government has done its utmost to force foreigners residing in Algiers to become French subjects, expelling them even from the Colony for the slightest fault (see Colonel Playfair's Report on a tour in Tunis, 24th November, 1885), it is reasonable to suppose that the same line of policy will be attempted to be carried out in this country. On the whole, therefore, one cannot reject the statement of the Receiver as incorrect.

The Inspector at Monastir, according to the Vice-Consul, also stated that the "Receveurs" would be dismissed and no others, but whether all are ejected or only the "Receveurs" it makes little difference, for the principle thus introduced still remains, that a number of persons employed in the Bey's Government have been ordered to adopt French nationality or to leave the service to make room for French subjects.

It will be seen from this how necessary it is to afford protection at this moment to those who are turned out of their places—the only means of preventing such arbitrary conduct in future.

There is one British subject employed as Receiver, a Mr. Levy, at Mahdia. He has been in the Bey's service eighteen years. He has, I am told, been ordered to leave and intends protesting against this injustice. I have not, as yet, received any official information about this matter and cannot at present vouch for its accuracy. I will, however, report thereon to your Lordship as soon as the circumstances connected with this case are brought officially to my notice.

Since writing the above, I have been furnished with a declaration from a British subject, Mr. Busuttil, a copy of which is herewith inclosed, stating he heard from one of the officials in the Municipality of Tunis, where he is also employed, that those

who were engaged by the Tunisian Government would be dismissed if they did not assume French nationality. This statement was, according to Mr. Busuttil, made by the Vice-President of the Municipality officiously, and tallies to a certain extent with what was reported at first by the Vice-Consul of Monastir.

It is as well that Mr. Busuttil's name be not mentioned, as it might get him into trouble.

I have, &c.
(Signed) G. T. RICKETTS.

Inclosure 1 in No. 98.

Mr. Portelli to Consul Ricketts.

(Translation.)
Sir,

Monastir, January 2, 1889.

LAST Sunday the "Contrôleur Civil" came to Monastir, and, having called all the people employed at the Custom-house, observed to them that the Government of the Republic was not aware of the fact that, if they did not become French subjects, they would be dismissed; but, he continued, this order was simply for the "Receveurs," without reference to the other people employed, whatever their nationality may be.

The "Receveur" (an Italian subject) sustains that the Inspector of the Customs, besides verbal orders, made him read a written order, which did not specify the "Receveurs" alone, but all employed, without distinction; and if such had not been the case, he, the "Receveur," would have never capriciously given such orders.

In the meantime, the "Contrôleur," having opened an inquiry, in which all the persons employed declared in writing what the "Receveur" had said to them regarding the visit and orders given by the Inspector,—after assuring all the other employés that the Government of the Republic had no intention to dismiss them,—he left.

I have, &c.
(Signed) F. PORTELLI.

Inclosure 2 in No. 98.

Extract from "La Tunisie" of November 23, 1888.

ON nous communique la liste des employés de la Douane. Sur vingt-neuf employés, non compris le Directeur, il n'y a que huit Français.

Les autres sont Tunisiens ou. . . . Italiens: il y a dix Israélites Tunisiens et onze Italiens.

Nous avons souvent blâmé les actes de la Résidence, mais nous n'avons aucun motif de douter du patriotisme de M. Massicault. Il suffira donc, nous en sommes convaincus, de lui signaler cet état de choses regrettable pour que les onze Italiens de la Direction des Douanes soient mis en demeure de se faire naturaliser Français ou de donner leur démission.

Inclosure 3 in No. 98.

Declaration of Mr. Lorenzo Busuttil.

(Translation.)

I, THE undersigned Lorenzo Busuttil, a British subject employed in one of the Tunisian markets, called Bab Houmet-el-Alloush, do hereby declare and say that, having been informed of a report regarding the dismissal of persons employed with the Tunisian Government unless they became French subjects, I asked M. Carmelo Morelli, the Cashier of the Gates and Markets, if the said report was true. He answered me that M. Ernest Gandolphe, the Vice-President of the Municipality of Tunis, told him so officiously, and that in a few days it would be communicated officially to me and the others employed. He stated that he told me this that I may be prepared what to answer.

(Signed) LORENZO BUSUTTIL.

Tunis, January 7, 1889.

No. 99.

The Marquis of Salisbury to M. Catalani.

M. le Chargé d'Affaires,

Foreign Office, January 15, 1889.

I HAVE the honour to acknowledge the receipt of your communication, marked Confidential, of the 7th instant, in regard to a Decree of the Bey of Tunis concerning the competence of the French Tribunals to pronounce judgment on disputed matters of administration pending between the Tunisian Government and foreign subjects in Tunis.

I have to state to you that the matter is being carefully considered, but that Her Majesty's Government are not yet prepared to express an opinion thereon.

I have, &c.
(Signed) SALISBURY.

No. 100.

Consul Ricketts to the Marquis of Salisbury.—(Received January 18.)

(No. 4.)

My Lord,

Tunis, January 10, 1889.

I HAVE the honour to inform your Lordship that despatch No. 4 of the 5th instant, signed by Sir Julian Pauncefoot, arrived here on the 9th of this month, and that No. 1 of the 1st January, sent via Algiers, only arrived here to-day, the 10th January, and that No. 3 has not yet come to hand.

I have, &c.
(Signed) G. T. RICKETTS.

No. 101.

Consul Ricketts to the Marquis of Salisbury.—(Received January 18.)

(No. 5.)

My Lord,

Tunis, January 13, 1889.

IN reference to the case of Mr. Levy, British subject, spoken of in my despatch No. 3.

I have now the honour to forward copy of a Petition from that gentleman, dated Mahdia, the 9th January, 1889, in which he states that he has been called on to renounce his nationality on pain of losing his post.

That a demand more or less to such an effect has been made is certain, for in a telegram No. 683 of the 25th December, at 2 P.M., from the Inspector of Customs of Susa, which I myself read, that functionary says: "Government desires to know if you wish to become a French subject." The reply was by telegram: "I cannot give up my nationality for certain delicate reasons which I told you the other day."

Mr. Isaac Levy was born at Gibraltar on the 2nd November, 1852.

A statement of his services is herewith inclosed, showing that he has long enjoyed the confidence of the Bey's Government.

To call on such a person to renounce his nationality on pain of dismissal, without any reason assigned, is an act which certainly does not redound to the credit of the authorities of this country,

I have, &c.
(Signed) G. T. RICKETTS.

Inclosure 1 in No. 101.

Mr. Levy to Consul Ricketts.

Sir,

Mahdia (Tunis), January 9, 1889.

YOUR petitioner, Her British Majesty's most faithful subject, has the honour to submit to your most careful attention the following:—

That during the last eight years he has been in the employ of the Tunisian Government, and for the last four years he has been and he is still acting as "Receveur des Douanes" at Mahdia.

Your petitioner prides himself that during this long interval he has always given entire satisfaction to his Chiefs, who often and often bestowed upon him very high praise in the fulfilment of his duties.

Judge, Sir, of your petitioner's surprise when lately one of his superiors informed him that if he desired to remain in his present situation he would have to demand French naturalization, as, in case of refusal, the local authorities would be in the necessity of intrusting his post to a French subject.

In answer to this barefaced proposal your petitioner had only one answer to give, and that he would never, for the sake of private interests, abandon the citizenship to which he has the honour and dignity to belong from his birth.

These are, Sir, the plain facts of the case; and in view the Tunisian Government decrees this measure, your petitioner protests most energetically for all damages that may befall him through this step, and trusts that you, Sir, will make known to Her British Majesty's Secretary of State, who will know what steps to take so as to protect the rights of one of Her Majesty's most dutiful and humble subjects.

Your petitioner has the honour to remain, &c.

(Signed) I. J. LEVY.

Inclosure 2 in No. 101.

Report obtained by the Finance Commission of His Highness the Bey of Tunis regarding the conduct of Mr. Levy, of Mahdia.

(Translation.)

Name and surname	Isaac J. Levy.
Nationality	British.
Place of birth	Gibraltar.
Date of birth	22nd November, 1852.
Education	Good.
Character	Serious.
Administrative conduct	Good.
Private conduct	Good.
Instruction	Good.
Languages	Speaks English, Italian, French, Spanish, and writes them. He also speaks Arabic.
Present position	Receiver of Customs.
Years of service	Eighteen years.

Previous Services.

Began his administrative services at Susa at the exportation of oil in 1871. In 1878 appointed Agent of Government Revenues at Monastir. In 1881 (April, May) discovered an important deposit of gunpowder at the Kuriat. Assisted the Commander of the "Leopard," who was coasting by Monastir, in all that took place. (See despatches of M. Roustan addressed to Monastir.) In July 1881 appointed British Administrator at Tunis, charged with the Mahsoulats of Sahel. In November 1881 charged to go and systemize and inspect the Agency at Bizerta. In February 1882 was commissioned to proceed to Tabarka to study the opening of new Customs, and make a Report on the other Customs at the north of Tunis. Was appointed Inspector for Ghardimaon. Left for that place in October 1882. Left by order of Government for the northern frontier. Reinstalled the Customs at Tabarka, reorganized the Customs at Balbrik, Babouche, Bordj Hamam, accompanying and instructing the employés. Received also orders to visit the southern frontier in order to reorganize, together with a Tunisian Inspector, the Customs at Sidi Yousef, where he went and placed a European Agent. On the 12th October, 1884, appointed Receiver at Mahdia.

Mahdia, January 10, 1888.

No. 102.

Foreign Office to Consul Ricketts.

(No. 10. Confidential.)

Sir,

Foreign Office, January 18, 1889.

WITH reference to the despatch from this Office, No. 16, of the 17th November last, and to previous correspondence, in regard to real property in Tunis, I am directed by the Marquis of Salisbury to transmit to you the accompanying copies of communi-

cations from the Representatives of France and Italy at this Court upon the question; and I am to instruct you at the same time to furnish his Lordship with such observations as you may have to offer thereupon, and to report fully on the case. Lord Salisbury desires to be supplied, for convenience of reference, with copies of the "Organic Laws of the Regency of Tunis," referred to in the Convention of the 10th October, 1863; the abrogated Articles of the Law of the 1st July, 1885, modified by the Law of the 16th May, 1886, referred to in the Decree of the 6th November, 1888, and the Laws of the 27th March, 1883, and the 9th April, 1884, recited in the French Decree of the 17th July, 1888, and I am to instruct you to send copies of these Laws accordingly, together with any others which may affect the question.

I am, &c.

(Signed) JULIAN PAUNCEFOTE.

No. 103.

The Earl of Lytton to the Marquis of Salisbury.—(Received January 19.)

(No. 21.)

My Lord,

Paris, January 16, 1889.

M. GOBLET informed me this afternoon that within the last few days Signor Crispi had given M. Mariani an assurance that the Italian Government does not intend to open any new schools at Tunis for the moment. M. Mariani asked the Italian Prime Minister whether the French Government might take the meaning of this expression to be that there was no intention of opening the new schools, about which communications have lately been passing between the two Governments, until some amicable understanding had been arrived at on the subject of them; but to this question Signor Crispi replied that he meant no more than what he had said, and that he was not to be understood as having given any pledge with regard to the further action of the Italian Government in reference to these schools.

M. Goblet further informed me that, since he had last spoken to me on this subject, M. Massicault had received from Signor Berio formal notice that their negotiations about it were to be considered as broken off, and that he was forbidden by his Government to renew them. M. Goblet had, however, learned from the French Resident at Tunis that, subsequent to this intimation, the Italian Consul completed four days ago the purchase of premises for one of the new schools in question; and he was therefore unable to place much confidence in the duration of the "moment" to which Signor Crispi had limited the assurance given by him to M. Mariani.

His Excellency went on to say that he had been much surprised at the statement which Count Hoyos had lately been instructed to make to him, that, in the event of war between Italy and France, Italy's allies would be bound to defend her. He had, he said, remarked to my German colleague that this statement seemed inconsistent with the assurance previously received from him that, if Italy forced a quarrel on France she would do so at her own risk; and he had also instructed M. Decrais to obtain from Count Kálnoky some explanation of the apparent inconsistency.

Count Kálnoky's explanation was to the effect that the statement in question was only a formal expression of the general relation in which Austria stands to Italy by virtue of the Treaty engagements between them; that it had been rendered necessary by the mischievous language of some French journal which professed to have authentic information that Austria was about to withdraw from the Triple Alliance; and that it was in nowise intended to qualify the assurance previously given to M. Goblet by the Austrian Ambassador at Paris.

With this explanation his Excellency said that he was perfectly satisfied.

I have, &c.

(Signed) LYTTON.

* Communiqué by M. Waddington, December 11, 1888; and communiqué by M. Catalani, December 16, 1888.

The Earl of Lytton to the Marquis of Salisbury.—(Received January 19.)

(No. 28.)

My Lord,

Paris, January 18, 1889.

SINCE my receipt of Sir A. Paget's telegram No. 2 of the 11th instant, informing me that Count Kálnoky had received from the Austrian Ambassador at Paris no intimation of any complaint by the French Government relative to the opening of new Italian schools in Tunis, I have been repeatedly assured by my Austrian colleague that he fully reported to his Government the language held to him by M. Goblet which, from his account of it, seems to have been identical with M. Goblet's language to myself in reference to all the circumstances mentioned in my recent despatches to your Lordship on this subject.

Count Hoyos truly observes that there has been no change in the *status quo* as between France and Italy in Tunis, inasmuch as the French have not attempted to apply the Beylical Decree of the 15th September, 1888, to the old Italian schools, and the Italians have not opened any new ones. But he tells me that he did not fail to inform Count Kálnoky of all the circumstances complained of by M. Goblet in relation to the declared intention of the Italian Government to open new schools without any previous understanding with the French Government as to the footing on which they are to be placed.

I have, &c.
(Signed) LYTTON.

The Earl of Lytton to the Marquis of Salisbury.—(Received January 19.)

(No. 29. Confidential.)

My Lord,

Paris, January 18, 1889.

WITH reference to your despatches Nos. 19 and 20, Confidential, of the 11th and 14th instant, relating to alleged preparations for the fortification of Bizerta, I have the honour to inform your Lordship that the assurance given to you on this subject by the French Ambassador in London is entirely confirmed by Baron Hühne, through whom I believe the German Government receives most of its information about Bizerta.

Baron Hühne is positive that nothing is being done or contemplated by the French Government in reference to the harbour at Bizerta, beyond the clearance of a portion of the canal connecting it with the inner lake, and a proposal to furnish the harbour with three or four torpedo-boats similar to those with which all the French harbours in the Mediterranean are, I believe, already supplied.

I presume that such a step would not cause alarm to Her Majesty's Government. But it is just possible that it may be abandoned rather than give any sort of colour to the reports mentioned in your Lordship's despatch No. 19 of the 11th instant; and I will take an opportunity of questioning M. Goblet about it.

It appears certain that the conversion of Bizerta into a strong naval port would be a very long and expensive undertaking. I am satisfied that the present Government has no such intention; and, if the intention existed, the means of carrying it out would not be forthcoming in the present financial condition of the French Government, which is almost verging upon bankruptcy.

My German colleague is confined to his house by a cold, and I have not received from him any communication on this subject.

I have, &c.
(Signed) LYTTON.

Consul Ricketts to the Marquis of Salisbury.—(Received January 21.)

(No. 7.)

My Lord,

Tunis, January 15, 1889.

IN an opinion given by the Law Officers of the Crown dated the 17th January, 1887, it was decided in the case of a French subject matriculating a portion of land belonging to Ben Ayad, a British subject, that the latter must appear before the

French Tribunal; and this course is recommended because the Treaty of 1863 is silent as regards disputes between foreigners, and because our jurisdiction in such matters has been ceded to the French Tribunals. At present, however, should the property be matriculated, the French Tribunals would not take cognizance of the suit, but would uphold the decision of the Mixed Tribunal—half Arab, half French—against which there is no appeal; consequently the British subject would be unable to prosecute his claim, and would in reality have no remedy, for our Treaty rights would not assist him, these being only applicable to suits between Tunisians and British subjects.

Further, should a Tunisian matriculate land belonging to a British subject, on any difference arising, the latter ought, by the Treaty of 1863, to be able to sue the former before the Court of the Sharaa; but the land once matriculated, the Sharaa, I am told, would not grant a hearing of such a claim. Of course, if a case of this description occur, it will be my duty to enter a protest against the action of the Sharaa.

Your Lordship will observe from this the difficulties which are likely to arise if this state of things be allowed to continue.

The only remedy for this evil, as far as I am able to judge, is the abolition of the Mixed Tribunal and the reversion to the method of procedure which existed formerly, namely, the hearing of all disputes about real property between foreigners in the French Tribunal, experts being called in when necessary or a reference being made to the Sharaa, suits between Tunisians and British subjects being decided on as mentioned in the Treaty of 1863. Such also would seem to have been the understanding arrived at in 1883, the French Government having then given assurances that no change whatever was contemplated in the system of real property, and this is evident from the following passage (p. 28, Decree of the 14th April, 1883, Correspondence No. 1, Tunis, 1884), which says:—

"As regards the system of real property and the application of the Laws which relate to it, no modification is made on the former system, the French Tribunal being simply substituted for the Consular Tribunal."

Further, the power intrusted to the Mixed Tribunal of sanctioning a title as valid and shutting out any claim against it not brought within two months after notice, would appear also to be contrary to the French Law itself, which grants a period of thirty years for the reclamation of property.

A system of registration may be suitable to countries like Australia or the River Plata, where large tracts unoccupied belong to the Government, no other tenure existing, but it is hardly suitable to a country like this where there are numerous forms of tenure prevailing and title-deeds have existed for centuries.

Other Laws in reference to this question are, I hear, being prepared, but ought they not, prior to publication, to be submitted to the consideration of all the Powers holding Treaties with this country?

I have, &c.
(Signed) G. T. RICKETTS.

The Marquis of Salisbury to M. Catalani.

(Confidential.)

THE Marquis of Salisbury presents his compliments to M. Catalani, and has the honour to transmit to him, herewith, a Memorandum containing such information as is in the possession of Her Majesty's Government respecting the port and lake of Bizerta.*

Foreign Office, January 21, 1889.

Foreign Office to Sir L. Playfair.

(No. 2.)

Sir,

Foreign Office, January 23, 1889.

I AM directed by the Marquis of Salisbury to instruct you to report to his Lordship any information which you may be able to obtain respecting the movements of the

French column, under General O'Neill, which proceeded in the direction of Figui last October, upon which the French newspapers have been silent.
You should similarly send your reply in cypher.

I am, &c.
(Signed) JULIAN PAUNCEFOTE.

No. 109.

Foreign Office to Consul Ricketts.

(No. 11.)

Sir, *Foreign Office, January 23, 1889.*
I AM directed by the Marquis of Salisbury to transmit to you herewith, for your information, copies of papers, as marked in the margin,* relating to the alleged intention of the French Government to fortify the port of Bizerta.

I am, &c.
(Signed) JULIAN PAUNCEFOTE.

No. 110.

Admiralty to Foreign Office.—(Received January 26.)

(Confidential.)

Sir, *Admiralty, January 25, 1889.*
WITH reference to your letter of the 14th instant respecting certain correspondence for Her Majesty's Consul in Tunis, I am commanded by my Lords Commissioners of the Admiralty to request that you will state to the Marquis of Salisbury that directions will be sent to the Commander-in-chief in the Mediterranean to cause these despatches to be forwarded to their destination in a ship of war, and I am to request that the bag may be sent to Malta at an early date.

I am, &c.
(Signed) EVAN MACGREGOR.

No. 111.

Consul Ricketts to the Marquis of Salisbury.—(Received January 29.)

(No. 8.)

My Lord, *Tunis, January 21, 1889.*
I HAVE the honour to acknowledge the receipt of your Lordship's despatch No. 6 of the 14th January, 1889, informing me, among other things, that the Bey of Tunis has the right to dismiss from his employ any foreigners for any reason whatever, provided he adheres to the terms of his contract with them.

Since receiving the above, a telegram has been sent me from the Vice-Consul of Mehdia, a copy of which is inclosed in translation.

From this, it will be observed that Mr. Levy refuses to receive the indemnity of 6,300 piastres offered him, protests against the action of the authorities in dismissing him without any fault on his part, and demands a regular indemnity, or, in other words, an indemnity more in proportion to his services than the one awarded.

Mr. Levy's uncle, who lives in Tunis, called on me to-day, and asked me what his nephew was to do, stating he intended entering an action against the authorities. I told him he must consult his own interests in this matter, but I did not think that any such action as he spoke of would be successful, Mr. Levy having, unfortunately, no written contract with the Bey. I advised him, also, to accept the sum offered. Mr. Levy replied that his nephew was dismissed merely because he would not give up his nationality, and that in view of this, the sum offered was not in proportion to the wrong done.

Should your Lordship entertain the same opinion, I trust you will be pleased to permit a representation to be made on this subject to the authorities at Paris, with the view of inducing them to be more liberal in their treatment of one who has been so long in the Bey's service.

The sum of 6,300 piastres is, I believe, equivalent to one year's salary.

I have, &c.
(Signed) G. T. RICKETTS.

* Nos. 77, 88, 91, 93, and 94.

Inclosure in No. 111.

Consular Agent at Mehdia to Consul Ricketts.

(Translation.)
(Telegraphic.)

Mehdia, January 20, 1889.

LEVY, Receiver of Customs, communicated to me the following protest:—
"The Inspector of Customs, Jacquesson, suddenly arrived in the evening. He consigned to me a letter from the Director of Finance announcing that, in consideration of superior orders of the Government requesting them to replace the Receivers of Foreign Nationalities, I was dismissed from my employment. It was added that notwithstanding my attitude towards the Administration had not been lately very satisfactory, the Government, making use of the greatest benevolence, assigned to me as an indemnity the sum of 6,300 piastres, and ordered me to transfer immediately my service to my successor, who had arrived here together with the Inspector. The above observation regarding my attitude towards the Administration confirms to me in every respect that the chief motive of such dismissal was my refusal to become a French subject, as had been proposed to me. I have refused 6,300 piastres as an indemnity, declaring to the Inspector that I was at his disposal for examining the cash and usual inspection of service; that I could not accept my dismissal on those conditions, as I intended to sustain my rights; consequently, I would not give up my service except by force. The Inspector refused to examine the cash, ordering me to go out of the office, where the number of guardians was increased, with orders to oppose my return to the office. All that precedes I beg you to refer officially to the Contrôleur Civil, declining my responsibility regarding the service forcibly given up. I intend to protest, as I do, against whom it may concern, reserving my rights for a regular indemnity for long service and services rendered.

"I beg you to transmit, by telegraph, to Her Britannic Majesty's Consul at Tunis.
"Begging you to assist me, I have, &c."

No. 112.

The Earl of Lytton to the Marquis of Salisbury.—(Received January 30.)

(No. 35. Confidential.)

My Lord,

Paris, January 25, 1889.

MY Italian colleague called on me last Wednesday morning, in consequence of a communication from his Government, informing him that I had been instructed to join him in making a representation to the French Government on the subject of its alleged preparations for the creation of a military post at Bizerta.

He proposed to make such a representation to M. Goblet that afternoon, and was anxious that our language should be identical.

I told General Menabrea that your Lordship had received from the French Ambassador in London assurances that there was no foundation for the report to which he referred, and that the French Government repudiated the intention imputed to it. I added that I had since ascertained M. Waddington's assurances to be in complete conformity with the information received from Bizerta by the German Embassy in Paris, and I asked General Menabrea whether he or his Government had received any authentic information of a contrary character.

As he replied in the negative, I ventured to deprecate representations to the French Government founded on reports ascertained beforehand to be baseless.

I told my Italian colleague that I had no instructions to take part in any such representations, and that if I mentioned the matter to M. Goblet, it would certainly not be in such a way as to imply alarm on the part of Her Majesty's Government, or menace to the Government of France.

My conversation with General Menabrea left me under the impression that he was disposed to take the same course; but, when I saw M. Goblet in the course of the same afternoon, his Excellency informed me that he had just received from the Italian Ambassador a communication which had much surprised him, to the effect that the English Government being seriously alarmed at the steps taken by France to convert Bizerta into an armed post had invited the Italian, and he believed the German, Government to join it in protesting against these proceedings; and that he was consequently instructed to support most strongly the representations of his English and German colleagues on this subject.

M. Goblet having observed that no such representations had been received by him, and that the subject was one to which neither Count Münster nor myself had as yet made any allusion, General Menabrea had replied that the English and German protest would doubtless follow in due course. Upon this, M. Goblet stated to my Italian colleague that, beyond the clearing out of the canal connecting the harbour with the inland lake, no works of any kind had been undertaken at Bizerta; and, on being pressed by General Menabrea for pledges as to the future, he had repeated, on behalf of the present Cabinet, a declaration made by M. Barthélemy St. Hilaire, under the presidency of M. Thiers, that the French Government has at present no intention of enlarging or arming the port of Bizerta, a work, he added, which would be exceedingly expensive.

In replying to M. Goblet's inquiries respecting that part of General Menabrea's above-mentioned communication which referred to Her Majesty's Government, I took occasion to observe that the conversion of Bizerta into a strong military post would so completely change the *status quo* in the Mediterranean, that it was unnecessary to dwell upon the serious provocation sure to be given by such a step to England and other Powers whose position in the Mediterranean would be affected by it.

I added, however, that so far as I knew, your Lordship had been fully satisfied by the assurances you had received from M. Waddington on this point, and that certainly I had no reason to suppose Her Majesty's Government likely to view with grave alarm the clearing of the canal at Bizerta, or even the employment of a few torpedo-boats for the protection of the harbour. But, as a matter of fact, I said, I should be glad to learn from his Excellency the exact number of torpedo-boats already stationed there.

M. Goblet replied that there is certainly one torpedo-boat at Bizerta, and he did not think there are any more, but this he could not say for certain; in any case, the number must be very small.

On the following day, General Menabrea again called on me to recount his conversation with M. Goblet on this subject. He said he had deemed it expedient to show the French Government that Italy and her friends are on the alert, and that France will not be permitted by them to turn Bizerta into a military port, but that, in accordance with my suggestion, he had referred to the matter in the most conciliatory terms, which would, he hoped, have a soothing effect.

In this hope, however, my Italian colleague will, I fear, be disappointed. For, after repeating to me his conversation with General Menabrea, M. Goblet referred in terms of intense irritation to what he called "the exasperating disposition" displayed by the Government of Italy towards France on every possible occasion, and amongst other instances of this he cited the recent false report of an attempt by the French Government to compel foreign employés at Tunis to adopt French nationality. That report, said his Excellency, if not actually invented, had certainly been circulated by the Italian Government without any previous attempt to ascertain the truth of it; yet, when it had been proved to be untrue, the Italian Government represented to the Governments of other Powers that the designs imputed by it to France had been seriously entertained, and only abandoned under the timely and strong pressure put upon France by Italy in a common interest. "Such disingenuous proceedings," said his Excellency, "terribly increase the difficulty of that conciliatory attitude which I am striving to maintain towards Italy. For every act of forbearance or concession on my part is advertised by the Italian Government as an act of fear or surrender to menace. The result is, that in its efforts to avoid a quarrel with Italy the French Government is unjustly exposed to the suspicion of its own countrymen, whose national susceptibilities are kept continually inflamed, not by their own Government, but by the Government of Italy itself; and some day the feelings of exasperation thus systematically fomented may become too acute to be disregarded by the most pacific Cabinet in this country."

I have, &c.
(Signed) LYTTON.

No. 113.

Consul Ricketts to the Marquis of Salisbury.—(Received January 31.)

(No. 9.)

My Lord,

Tunis, January 25, 1889.

I HAVE the honour to forward herewith inclosed to your Lordship a Decree dated the 3rd January, 1889, and issued by the Bey of this country, establishing a Sanitary Commission, the President of which is the French Consul.

Hitherto the sanitary measures have been carried out by the Municipality;

No. 112*.

The Marquis of Salisbury to the Marquis of Dufferin.

(No. 22. Confidential.)

My Lord,

Foreign Office, January 30, 1889.

THE Italian Chargé d'Affaires at this Court called at the Foreign Office to-day to make a confidential communication.

M. Catalani stated that he had received a telegram from M. Crispi, to the effect that, without having recourse to any extraordinary outlay, France might improve the port of Bizerta and deepen the canal. She has taken this work in hand, which, once the fortifications completed, will neither occupy a long time nor cost a very large sum of money. The Italian Government are on the watch, but they hope Her Majesty's Government will be on the watch also, in order to prevent a disturbance of the balance of power in the Mediterranean.

I am, &c.
(Signed) SALISBURY.

there is, therefore, no reason whatever why this state of things should be altered and the direction of this matter handed to a Commission. One is consequently led to look upon the publication of this Decree, among other things, as a means of enabling the authorities to carry out their intention as regards the inspection of the schools and dwellings of foreigners residing in this country.

The question then arises for the consideration of your Lordship: Supposing the dwelling of a British subject is entered under the orders of this Commission without the consent of his Consul being first obtained, is such an act to be regarded as a breach of the Treaties of 1875 or 1868, and can such a Law be made applicable to British subjects, in view of the rights acquired by them through the Capitulations?

I have, &c.

(Signed) G. T. RICKETTS.

Inclosure in No. 113.

Extract from the "Journal Officiel Tunisien" of January 10, 1889.

Décret du 30 Rabia-et-Tani, 1306 (3 Janvier, 1889).

(Louanges à Dieu.)

CONSIDÉRANT qu'il appartient au Gouvernement de prescrire les mesures nécessaires pour prévenir les épidémies et assurer l'assainissement des centres de population;

Que, dans ce but, il y a lieu de constituer un Conseil composé d'hommes compétents destinés à éclairer l'Administration de ses avis;

Nous avons pris le Décret suivant:

Article 1^{er}. Il est établi à Tunis un Conseil Central d'Hygiène Publique et de Salubrité. Les membres de ce Conseil sont au nombre de neuf au moins et de douze au plus, non compris les membres de droit institués par l'Article 3 du présent Décret. Ils sont nommés pour neuf ans par Décret de Son Altesse le Bey et renouvelables par tiers tous les trois ans.

Art. 2. Le territoire de la Régence est divisé en trois circonscriptions sanitaires. Ces circonscriptions auront pour chefs-lieux les villes de Tunis, Sfax, et Sousse. Dans chacune de ces deux dernières villes, il est institué une Commission d'Hygiène Publique et de Salubrité.

La circonscription de Tunis comprend: les contrôles civils de Tunis, la Goulette, Nebeul, Béja, Souk-el-Arba, Le Kef, et le Commandement Supérieur d'Ain-Draham.

La circonscription de Sousse comprend: les contrôles civils de Sousse, de Kairouan, et de Maktar.

La circonscription de Sfax comprend: les contrôles civils de Sfax, de Djerba, et de Tozeur, et les commandements supérieurs de Gabès et de Gafsa.

Le Conseil Central de Tunis fait fonction de Commission d'Hygiène Publique et de Salubrité pour la circonscription de Tunis.

Il sera pourvu ultérieurement à la composition des Commissions régionales.

Art. 3. Font partie de droit du Conseil Central d'Hygiène Publique de Tunis:

1. Le Directeur de la Santé de la Régence.
2. Le Médecin Directeur du Lazaret de Carthage.
3. Le Médecin du Service de la Vaccine.
4. L'Inspecteur du Service Sanitaire et de l'Élevage.
5. Le Directeur du Laboratoire de Chimie Industrielle et Agricole.
6. L'Ingénieur chargé du Service des Eaux et Bâtiments de l'État.
7. L'Ingénieur du Service des Mines.
8. Le Premier Vice-Président de la Municipalité de Tunis.
9. L'Ingénieur Directeur des Travaux Publics de la Ville.
10. Le Contrôleur Civil de Tunis.
11. Le Médecin Directeur du Service de Santé Militaire.
12. Le Médecin-en-chef de l'Hôpital du Belvédère.
13. Le Pharmacien de l'Armée le plus en élevé grade.
14. Le Vétérinaire de l'Armée le plus élevé en grade en Tunis.

Art. 4. Divers fonctionnaires désignés par notre Premier Ministre peuvent être appelés à siéger dans les Conseils et Commissions avec voix consultative, ainsi que toutes personnes ayant une compétence spéciale pour des questions à l'étude.

Art. 5. Le Conseil Central d'Hygiène Publique et de Salubrité de Tunis est présidé par le Ministre Résident Général de France ou son délégué.

Le Conseil Central élit deux Vice-Présidents et un Secrétaire choisis parmi ses membres et renouvelables tous les trois ans. En l'absence du Président, le premier Vice-Président et à son défaut, le deuxième Vice-Président occupe la Présidence.

Art. 6. Le Conseil Central d'Hygiène Publique de Tunis se réunit au moins tous les mois. Les Commissions Régionales se réunissent au moins une fois tous les deux mois. D'autres réunions peuvent avoir lieu, sur la convocation du Président, ou lorsqu'il en aura été faite la demande par les Vice-Présidents et le Secrétaire.

Art. 7. Tout membre du Conseil Central ou des Commissions Régionales d'Hygiène Publique et de Salubrité, autre que les membres de droit, qui, sans motif d'excuse approuvé par le Conseil, a manqué de se rendre à trois convocations successives, est considéré comme démissionnaire et remplacé dans le mois qui suivra la notification de cette décision, s'il était membre du Conseil Central, dans les trois mois s'il était membre d'une Commission.

Art. 8. Le Conseil Central et les Commissions d'Hygiène Publique et de Salubrité sont consultés sur les questions relatives au maintien et à la préservation de la santé publique dans leurs circonscriptions respectives, notamment en ce qui concerne :

1. L'assainissement des localités et des habitations ;
2. Les mesures à prendre pour prévenir et combattre les maladies endémiques, épidémiques et transmissibles ;
3. Les maladies communes aux hommes et aux animaux ;
4. La propagation de la vaccine ;
5. L'organisation des secours aux malades indigents ;
6. Les moyens d'améliorer les conditions sanitaires des populations industrielles et agricoles ;
7. La salubrité des écoles, hôpitaux, maisons d'aliénés, établissements de bienfaisance, prisons, dépôts de mendicité, &c. ;
8. La qualité des aliments, boissons, condiments et médicaments livrés à la consommation ;
9. L'amélioration des établissements d'eaux minérales appartenant à l'État, aux communes, et aux particuliers ;
10. La salubrité tant intérieure qu'extérieure des fabriques, manufactures, chantiers, mines, ateliers, ainsi que les conditions d'hygiène des personnes qui y seront employées ;
11. La salubrité des cours d'eau, l'alimentation en eau potable des agglomérations ;
12. Les grands travaux d'utilité publique, construction d'édifices, écoles, prisons, théâtres, ports, canaux, réservoirs, fontaines, halles, établissements des marchés, abattoirs, égouts, cimetières, voirie, &c., sous le rapport de l'hygiène publique ;
13. La statistique démographique et la géographie médicale.

Art. 9. Le Conseil Central d'Hygiène Publique de Tunis est chargé de centraliser et de coordonner les travaux des Commissions régionales d'hygiène publique et de salubrité. Il fera annuellement un Rapport sur ces travaux et sur ceux qu'il aura lui-même effectués. Ce Rapport sera adressé à M. le Ministre Résident Général.

Art. 10. La délibération du Conseil Central et des Commissions régionales d'hygiène publique et de salubrité sont transmises par les soins de M. le Ministre Résident Général à l'Administration compétente.

Art. 11. Le droit d'initiative appartient au Conseil Central et aux Commissions régionales d'hygiène publique et de salubrité, dans toutes les questions rentrant dans les attributions énoncées à l'Article 9.

Des avis pourront leur être demandés sur toutes ces questions, et en cas d'urgence, par convocation spéciale.

Art. 12. Notre Premier Ministre est chargé de l'exécution du présent Décret.

Vu pour promulgation et mise à exécution :

Le Ministre Plénipotentiaire, Résident Général
de la République Française,

(Signé) J. MASSICAULT.

Tunis, le 4 Janvier, 1889.

No. 114.

The Marquis of Salisbury to the Earl of Lytton.

(No. 46.)

My Lord,

Foreign Office, February 2, 1889.

I HAVE received your Excellency's despatch No. 35, Confidential, of the 25th ultimo, reporting the substance of conversations which you had had with General Menabrea, the Italian Ambassador in Paris, and likewise with the French Minister for Foreign Affairs, in connection with the representations which the former had been instructed to make to the French Government relative to the alleged intention of creating a military port at Bizerta, and I have to convey to your Excellency my approval of your proceedings, as reported therein.

I am, &c.
(Signed) SALISBURY.

No. 115.

Foreign Office to Admiralty.

Sir,

Foreign Office, February 2, 1889.

IN reply to your letter of the 25th ultimo, I am directed by the Marquis of Salisbury to state to you, for the information of the Lords Commissioners of the Admiralty, that a bag containing confidential print, addressed to Her Majesty's Consul at Tunis, will be forwarded to the Admiral in command at Malta by the Peninsular and Oriental steamer leaving London on the 7th instant.

I am to request that instructions may be issued by their Lordships for the conveyance of this bag to Mr. Ricketts at as early a date after its receipt at Malta as convenient.

I am, &c.
(Signed) JULIAN PAUNCEFOTE.

No. 116.

M. Catalani to the Marquis of Salisbury.—(Received February 4.)

(Translation.)

My Lord,

20, Grosvenor Square, London, February 1, 1889.

I HAD the honour to receive the note which your Lordship addressed to me on the 15th of January last, relative to the question of the "Contentieux" in Tunis, and now have to inform you, in confirmation and explanation of my letter of the 7th of the same month, that as soon as my Government received information on that point, they gave instructions to our Representative at Tunis to inform M. Massicault that as this Decree of the Bey made a substantial change in the provisions of the Protocol of the 25th January, 1884, it was the duty of the French Government, and not of that of the Regency, to ask for an approval.

In consequence of this the French Ambassador at Rome sent on the 25th January a note verbale to his Excellency Cavaliere Crispi, to inform him of the promulgation of the Decree, which took place on the 27th November, and to complain at the same time of the instructions sent to the Consul-General at Tunis.

Signor Crispi answered M. Mariani by another note verbale, in which he maintained that his action had been correct, and declared that the Decree of the Bey could have no validity as regards Italian subjects.

I have the honour to transmit to your Lordship herewith, with a request that they may be returned, copies of the two above-mentioned notes, so that you may be informed of the development of this incident, about which the Italian Government express the wish to know, if possible, the opinion of the Government of Great Britain, and the tenor of the communication made on this subject to the French Government.

Thanking your Lordship beforehand, &c.

(Signed) T. CATALANI.

Inclosure 1 in No. 116.

Note Verbale.

LE Gouvernement Beylical de Tunis vient de promulguer un Décret sur le Contentieux Administratif.

Cet acte a été élaboré d'après les principes et les stipulations du Protocole du 25 Janvier, 1884, portant suspension de la juridiction Italienne en Tunisie. L'Article 6, en effet, de ce Protocole, spécifiait expressément, comme l'une des conditions de l'entente à intervenir, que la compétence des nouveaux Tribunaux serait étendue aux matières du Contentieux Administratif. L'accomplissement de cette obligation n'était pas sans offrir quelque difficulté en raison des règles de la législation Française qui diffèrent sur ce point de la législation Italienne, et ce n'est que dans ces derniers temps que le Gouvernement de la République s'est trouvé en mesure de s'en acquitter en soumettant à la signature du Bey la décision dont il s'agit.

M. Massicault avait pris soin de communiquer le texte du Décret à M. Berio, dès le 2 Novembre dernier, en le priant de le transmettre à Rome, dans la pensée qu'il serait agréable au Gouvernement Royal de pouvoir constater à quel point il s'inspirait, dans ses parties essentielles, de l'esprit de la Loi Italienne de 1865; et le Consul-Général d'Italie n'avait pas hésité à déclarer, après examen, qu'il l'avait trouvé très satisfaisant. Aussi n'est-ce pas sans surprise que le Gouvernement de la République a pris connaissance de la lettre par laquelle M. Berio a communiqué à M. Massicault un télégramme qu'il a reçu de son Gouvernement au sujet de ce Décret. Il s'agit, en effet, dans l'espèce, non pas, comme paraît le croire le Cabinet de Rome, d'une modification à apporter au régime judiciaire dont la reconnaissance fait l'objet du Protocole de 1884, mais seulement de l'exécution d'un engagement mis à la charge du Gouvernement Français par le même Protocole et qu'il lui tardait de remplir.

En faisant connaître hier la situation à M. le Président du Conseil, on lui a exposé, en toute cordialité, le point de vue auquel s'était placé le Gouvernement de la République. On ne peut aujourd'hui qu'insister sur les sentiments dont il s'est inspiré en prenant une initiative qui, on le répète, procède uniquement de son désir de s'acquitter de la dernière obligation qu'il lui restait à remplir vis-à-vis du Gouvernement Italien du fait de l'accord de 1884, et l'on espère qu'il ne restera, s'il en existait, aucun doute à cet égard dans l'esprit de son Excellence.

Rome, le 25 Décembre, 1888.

Inclosure 2 in No. 116.

Note Verbale.

(Translation.)

ON the 25th ultimo, the French Ambassador, by a note handed to his Excellency the President of the Council, informed the Italian Government of the promulgation of a Decree of the Bey's Government concerning the "Contentieux Administratif."

In this document it is asserted that the Decree has been drawn up according to the principles and stipulations of the Protocol of the 25th January, 1884, and that in consequence it is not a modification of the judicial system, but merely the execution of a duty imposed on the French Government by that same Protocol.

It is added that the text of the Decree had been communicated on the 2nd November to the Italian Agent at Tunis by M. Massicault, with a request that it might be transmitted to Rome, and that Commendatore Berio expressed his satisfaction after reading it.

Finally, it expresses the surprise of the French Government on reading the telegram addressed by the Italian Government to their Representative at Tunis, and communicated by the latter to M. Massicault.

We beg leave to point out what is inaccurate in the note from the French Embassy.

Although it is true that the enlargement of the competence of the new Tribunals to enable it to deal with matters connected with the "Contentieux Administratif" was expressly laid down by Article 6 of the Protocol of Rome of 1884, that enlargement should have been made according to Italian law.

"La juridiction du Tribunal Consulaire Italien devant intégralement passer au nouveau Magistrat, il est convenu que ce dernier aura compétence aussi dans les

matières de Contentieux Administratif en conformité de la Loi Italienne du 20 Novembre, 1865." (Article 6.)

Therefore, if the new Decree restricts itself to the application of this Law, no objection could be raised by the Italian Government to its promulgation. But if, on the contrary, the provisions of Italian law in matters relating to the "Contentieux Administratif" undergo any modification whatever, there would result a real alteration in the new system of jurisdiction established by the Protocol of 1884, which could not be done without the express consent of the Italian Government.

"Le nouveau régime juridictionnel ne pourra être ultérieurement modifié qu'avec l'approbation explicite du Gouvernement du Roi." (Article 3, paragraph 3.)

As soon as the Italian Government received from Commendatore Berio the draft of the Decree, they did not fail to examine it carefully and to refer it to the Keeper of the Seals for his opinion. They have had no difficulty in perceiving that by the new arrangement the Italian Law of 1865 is more or less materially altered, although by the Protocol quoted above, that Law should have been applied in its integrity. Without entering into minute details it may be observed, as an instance, that Article 5 lays down that the Court of Appeal should decide finally, whereas by the Italian Law there is no limitation to the right of appealing to the "Cour de Cassation."

The Decree, therefore, constitutes a real modification of the system of jurisdiction sanctioned by the Franco-Italian Protocol of 1884, which cannot have any validity without the express consent of the Italian Government. And that consent must evidently be asked by the Government who concluded the Agreement.

It was precisely in this sense that the telegraphic instructions sent on the 28th November, 1888, to the Italian Agent at Tunis, were drawn up, and, according to the information received by the Minister for Foreign Affairs, the latter repeatedly declared to M. Massicault both before and after the instructions he received, that he could not accept the communication of the draft Decree, as this ought to be done by the Government of the Republic to the Italian Government.

The Italian Government have therefore a double reason for being astonished at the promulgation of the Bey's Decree in question, which can have no validity in their eyes.

Rome, January 6, 1889.

No. 117.

Foreign Office to Consul Ricketts.

(No. 15.)

Sir,

Foreign Office, February 4, 1889.

I AM directed by the Marquis of Salisbury to acknowledge the receipt of your despatch No. 32 of the 24th December last, reporting the case of Mr. G. Licari, a British subject, proprietor of a manufactory and residing at Tunis, whose shop and premises were entered by the police under the orders of an Inspector of the Sanitary Board appointed by the Municipal Council, and some 2,000 bottles of liquor and other articles seized and placed under seal.

I am to observe that although Article III of the Convention of the 10th October, 1863, respecting real property in Tunis, says: "Every proprietor of houses, magazines, or other tenements shall conform to the Municipal Regulations now existing or which shall hereafter exist," and it is repeated in Article XVII that "British subjects holding immovable property in the Regency of Tunis shall, in conforming to the local Laws and Regulations, exercise and enjoy the same immunities, privileges, and rights that are accorded to Tunisian proprietors." Article XV says that it is "moreover agreed that upon the written requisition of the Minister for Foreign Affairs, or of the President of the Municipal Council, to the Consul-General, or in his absence to his deputy, the fiscal officers shall have the right to ascertain by personal inspection that the manufactory has been diverted from the purpose for which permission was given."

The Articles of the Convention of the 19th July, 1875, which also bear upon this question, are the Vth and the XVIIth.

Article V says: "The dwellings and warehouses of British subjects destined for the purposes of residence and commerce, as well as their property, both real and personal of every kind, shall be respected, and in particular all the stipulations of the Convention concluded between Her Majesty's Government and His Highness the Bey on the 10th October, 1863, relative to the permission granted to British subjects to hold real property in the Regency of Tunis, are hereby confirmed;" and Article XVII

says: "British subjects and Tunisian subjects shall be free to exercise in each others country any art, profession, or industry, and establish manufactories and factories;" and that "it is understood that the manufactories and their appurtenances being immovable property shall be subject to the provisions of the Convention of the 10th October, 1863."

These Treaty stipulations the French Government have formally engaged to respect.

The Order in Council of the 31st December, 1883, abolished British Consular jurisdiction in Tunis, so far as regarded all matters and cases which came within the jurisdiction of the French Tribunals, but the case of Mr. Licari has not been brought before those Tribunals, and his complaint would appear to be that his manufactory has been entered by the police under no higher authority than an agent appointed by the Municipal Council, and without the previous knowledge and sanction of Her Majesty's Consul-General, and, moreover, that his goods have been improperly seized and removed from his premises.

The French Tribunals may issue process to be executed on foreigners and their residences in all matters within their civil and criminal jurisdiction, but the present is a case of process issued by the Municipality, in violation of the immunities secured by Treaty.

I am to instruct you, therefore, to make a representation to the French Resident to that effect.

I am, &c.
(Signed) JULIAN PAUNCEFOTE

No. 118.

Memorandum on Tunisian Decree respecting Inspection of Houses for Sanitary Purposes.

THE Convention with Tunis of the 19th July, 1875,* says: (Article V) "British subjects shall be free to travel or to reside in any part of the Regency without hindrance or molestation," and that "their dwellings and warehouses destined for the purposes of residence and commerce, as well as their property, both real and personal, of every kind, shall be respected, and, in particular, all the stipulations of the Convention concluded between Her Majesty's Government and His Highness the Bey on the 10th October, 1863, relative to the permission granted to British subjects to hold real property in the Regency of Tunis, are hereby confirmed." British subjects, &c., were then declared to be entitled to enjoy most-favoured-nation treatment.

The Convention of the 10th October, 1863, thus referred to, stipulates that "every proprietor of houses, magazines, or other tenements, shall conform to the *Municipal Regulations* now existing, or which shall hereafter exist." And Mr. Ricketts says that hitherto the sanitary measures in Tunis have been carried out by the Municipality, but he points out that the recent Decree establishes a new state of things, inasmuch as sanitary matters are now to be handed over to a Commission.

Mr. Ricketts then inquires whether this is not opposed to Treaty stipulations, as well as to the Capitulations. The Treaties have already been referred to, and show that the establishment of a "Commission" in lieu of the Municipality is, strictly speaking, opposed to the stipulations of the Treaty of 1875. With regard to the Capitulations, although Her Majesty's Government have abandoned British Consular jurisdiction in Tunis, as regards all such matters and cases as come within the jurisdiction of the French Tribunals, they have not given up the Capitulations altogether, and although, on a previous despatch from Mr. Ricketts, bearing upon a somewhat similar question, it was not thought necessary to quote the Protocol of the 28th July, 1868, with *Turkey*, as the case appeared to be strong enough without it, it may now be stated that by that Protocol it was agreed that "the dwelling of every person inhabiting the Ottoman territory being inviolable, and no one being entitled to enter it without the consent of its master, unless in virtue of orders issued by the competent authority, and with the assistance of the Magistrate or functionary invested with the necessary powers, the dwelling of a foreign subject is inviolable by the same right, in conformity with Treaties; and the officers of the police cannot enter them without the assistance of the Consul of the country to which the foreigner belongs, or of his Delegate.

* Hertlet's Treaties, vol. xiv, p. 543.

This may be said to have been modified by the Treaty with Tunis of the 10th October, 1863, which was confirmed by the Treaty of 1875; but then the "competent authority" recognized by the Convention of 1863 was the Municipality, although it is true that it was only in the case of its being thought necessary to enter "manufactories," and not ordinary houses, that it was stipulated that this should be done upon the written requisition of the Minister for Foreign Affairs, or the President of the Municipal Council, to the Consul-General, or, in his absence, to his Deputy.

The question for consideration then is, whether it is advisable to remind the French Resident in Tunis of these Treaty stipulations, or to wait until a case for remonstrance actually arises. I should recommend the latter course.

(Signed) E. HERTSLET.

Foreign Office, February 5, 1889.

No. 119.

The Marquis of Salisbury to the Earl of Lytton.

(No. 54.)

My Lord,

Foreign Office, February 9, 1889.

WITH reference to my despatch No. 20 of the 11th ultimo and to previous correspondence in regard to the alleged dismissal of Tunisian employés refusing to adopt French nationality, I transmit to your Excellency the accompanying copies of despatches, as marked in the margin,* from Her Majesty's Consul at Tunis, relative to the case of Mr. Levy, a British subject.

I have to observe to your Excellency that this is an instance of the exercise of strict legal rights in a manner calculated to give legitimate grounds of complaint to friendly Powers. It can hardly be denied that an old and deserving public servant of the Tunisian Administration possessing high qualifications for his post has been dismissed with the offer of one year's pay, solely on the ground that being a British subject he declined to accept French nationality, and it would be only just that he should at least be assigned a suitable pension.

I have to request your Lordship to represent the case to the French Government, observing that it is likely to make the worst impression in this country, and to justify the complaints of the Italian Government on the subject.

I am, &c.
(Signed) SALISBURY.

No. 120.

The Marquis of Salisbury to Sir E. Malet.

(No. 50.)

Sir,

Foreign Office, February 15, 1889.

COUNT LEYDEN called at the Foreign Office on the 11th instant, on behalf of the German Ambassador at this Court, to inquire, for the information of his Government, what was the opinion of Her Majesty's Government of the Decree of the Bey of Tunis of the 27th November, 1888, giving powers to the French Tribunals to hear and decide on suits brought by private persons against the Administration, questions having been raised as to the character of its provisions, and as to its validity. Count Leyden stated that the German Consul at Tunis had reported that he thought a measure of the kind desirable, but that he considered the Decree not warranted by the Treaty arrangements and Capitulations. Count Leyden was informed, in reply, that the question is still under consideration, and that Her Majesty's Government are not prepared to express an opinion on the Decree, pending the receipt of M. Clunet's opinion on certain points of law, which Her Majesty's Ambassador at Paris was, by my despatch No. 17 of the 10th ultimo, directed to obtain.

I am, &c.
(Signed) SALISBURY.

* Nos. 101 and 111.

No. 121.

The Marquis of Salisbury to M. Catalani.

M. le Chargé d'Affaires,

Foreign Office, February 15, 1889.

WITH reference to your letter of the 1st instant, upon the subject of the Decree of the Bey of Tunis, of the 27th November, 1888, giving powers to the French Tribunals to hear and decide on suits brought by private persons against the Administration, I have the honour to state to you that the Decree in question is still under consideration, and that Her Majesty's Government are not yet able to express an opinion thereon.

I have, &c.
(Signed) SALISBURY.

No. 122.

Foreign Office to Consul Ricketts.(No. 22.)
Sir,*Foreign Office, February 20, 1889.*

I AM directed by the Marquis of Salisbury to acknowledge the receipt of your despatch No. 9 of the 25th ultimo, inclosing copy of a Decree dated the 3rd January, 1889, issued by the Bey of Tunis establishing a Sanitary Commission, with the French Consul as President.

With reference to your remarks as to the probable intention of the authorities in issuing this Decree, I am to observe that the Commission will probably prove a more useful institution for sanitary purposes than the Municipality; and his Lordship is therefore of opinion that Her Majesty's Government should not object to the transfer of the functions of the latter, as regards sanitary business, to the Commission. Although the Convention of the 10th October, 1863, stipulates that "every proprietor of houses, magazines, or other tenements shall conform to the Municipal Regulations," Her Majesty's Government are not prepared to insist that the sanitary measures, which are clearly binding on every householder, native or foreign, must be passed only by the Municipality.

With regard to the enforcement of those Regulations, it is clear that Her Majesty's Government, having only waived the Capitulations and abandoned British Consular jurisdiction in Tunis so far as necessary to give scope to the jurisdiction conferred on the French Tribunals, those Tribunals alone have power to execute process on foreigners, and Her Majesty's Government have a right, under the Capitulations, to require that the dwelling of a British subject shall not be forcibly entered by order of the Sanitary Commission alone.

I am to instruct you to govern yourself accordingly, but to make no protest unless a violation of a British domicile should take place by its being entered without your consent by Tunisian officials, acting solely under the orders of the Commission.

I am, &c.
(Signed) JULIAN PAUNCEFOTE.

No. 123.

The Earl of Lytton to the Marquis of Salisbury.—(Received February 21.)(No. 83.)
My Lord,*Paris, February 20, 1889.*

WITH reference to your Lordship's despatch No. 54 of the 9th instant, I have the honour to inform your Lordship that, in conversation with M. Goblet at the Foreign Office this afternoon, I spoke to him very strongly with regard to the alleged dismissal of Mr. Levy from the service of the Tunisian Customs Administration.

His Excellency said that he could scarcely credit the report, for it was in direct contradiction to what the French Resident had stated to be the intention of the Beylical Government, but he promised to telegraph at once to M. Massicault for an explanation, and to acquaint me with the result of his inquiries.

I inclose herewith a copy of a Memorandum upon the subject, which I left at the same time with M. Goblet.

I have, &c.
(Signed) LYTTON.

Inclosure in No. 123.

Memorandum by the Earl of Lytton.

THE attention of M. Goblet was called by Lord Lytton, on the 2nd January last, to the reported intention of the Tunisian Government to dismiss all foreigners from its service unless they adopted French nationality; and M. Goblet on that occasion authorized Lord Lytton to inform Lord Salisbury that there was no foundation whatever for these reports, but he added that, in view of the new Tariff Regulations, it had been deemed expedient not to dismiss, but simply to transfer to other Departments of the Tunisian Administration, some Italians previously employed in the Custom-house.

Her Majesty's Government have learned, however, notwithstanding these statements, that Mr. Levy, a British subject and Receiver of Customs at Mahdia, has been called upon to resign his post in consequence of his refusal to renounce his British nationality, and that the only compensation which he has received is one year's pay.

After the assurances conveyed by Lord Lytton from M. Goblet to Lord Salisbury, Her Majesty's Government have received this information with great surprise, and Lord Lytton has been instructed to observe to the Minister of Foreign Affairs that this is an instance of the exercise of strict legal rights in a manner calculated to give legitimate grounds of complaint to friendly Powers. It can hardly be denied that an old and deserving public servant of the Tunisian Administration, possessing high qualifications for his post, has been dismissed without pension and with only the offer of one year's salary, solely on the ground that, being a British subject, he declined to accept French nationality. In representing this case to the French Government, Lord Lytton is instructed to state that it is calculated to make the worst impression in England, and to justify the complaints which the Italian Government considered it their duty to bring to the notice of the Powers interested.

(Signed) LYTTON.

Paris, February 17, 1889.

No. 124.

The Marquis of Salisbury to the Earl of Lytton.(No. 76.)
My Lord,*Foreign Office, February 25, 1889.*

I HAVE received your Excellency's despatch No. 83 of the 20th instant, reporting that, in conversation on the afternoon of that day with the French Minister for Foreign Affairs, you had spoken to his Excellency very strongly with regard to the alleged dismissal of Mr. Levy from the service of the Tunisian Customs Administration. I have to convey to your Excellency my approval of your proceedings, and of the Memorandum upon the subject which your Lordship left at the same time with M. Goblet.

I am, &c.
(Signed) SALISBURY.

Consul Ricketts to the Marquis of Salisbury.—(Received February 26.)

(No. 10.)

My Lord,

Tunis, February 18, 1889.

IN the newspaper called the "Tunis" on the 9th of this month, it was stated: "There is a report to the effect that the Court of Tunis has been declared incompetent in matters of real property by the Court of Appeal of Algiers." I have not as yet been able to verify the truth of this report, but will endeavour to obtain a copy of this sentence should it exist.

If the effect of this decision be to withdraw from the Court of Tunis the power which it has taken to itself since the occupation of hearing suits respecting real property, leaving it merely to execute the sentences of the Sharâa, the Mixed Court holding no authority, it would be better than the course recommended by me in my despatch No. 7, wherein I suggested that suits between foreigners relating to immovable property, should be heard by the French Tribunal, a reference being made to the Sharâa in every case; and this would seem to be evident:—

1. In that the Sharâa is the only Court in this country capable of dealing with questions of title, often very intricate.

2. In that, prior to the occupation, such suits between foreigners, when brought before the Consuls, were generally transferred to the Sharâa for their hearing and opinion, the Consuls merely executing or asking the sentences to be revised.

3. In that this exequatur would appear to have been the only power which should have been transferred to the French Tribunal in accordance with the arrangement made in 1883.

4. In that the delay arising from the action of the French Tribunal in these matters is excessive. As a proof of this I have only to cite the case of Mr. Busuttil, which, if the Court was incompetent, should have at once been thrown out, instead of being detained there for three years and upwards.

I have, &c.

(Signed) G. T. RICKETTS.

No. 126.

Foreign Office to Consul Ricketts.

(No. 23.)

Sir,

Foreign Office, February 28, 1889.

I AM directed by the Marquis of Salisbury to acknowledge the receipt of your despatch No. 37 of the 24th December last, reporting that you had attended a meeting of your colleagues for the nomination of "Délégués" as stated by you to be required under the Law regulating the organization of French jurisdiction in Tunis.

In the first place, I am to point out that the matter is governed by the Presidential Decree of the 14th April, 1883, which you will find at p. 41, Confidential Correspondence, No. 4805, respecting French Tribunals in Tunis.

In that Decree, provision is made for the nomination by the Representatives of the foreign Powers of two Notables to sit on a Commission for the appointment of Assessors in criminal cases where foreigners are concerned.

With reference to the comments which you make on the working of the Commission, and to your suggestion that some amendment should be introduced into it, I am to observe that the French Government might have claimed that the list of Assessors should be prepared in their own Tribunals without reference to the foreign community, but they consented to add two Notables to the Commission charged with that duty.

The Decree, moreover, was submitted at the time to Her Majesty's Government, who raised no objection to the provision in question, and I am to state that Lord Salisbury sees no ground for modifying that view.

I am, &c.

(Signed) JULIAN PAUNCEFOTE.

Consul Ricketts to the Marquis of Salisbury.—(Received March 1.)

(No. 11.)

My Lord,

Tunis, February 26, 1889.

I HAVE the honour to forward herewith, inclosed to your Lordship, a Décreté dated the 20th instant, issued by the Bey of this country, concerning the conversion of the Tunisian Debt 4 per cent. into 3½ per cent.

I have, &c.

(Signed) G. T. RICKETTS.

Inclosure in No. 126*.

Loi portant approbation du Décret Beylical, en date du 17 Décembre, 1888, concernant la Conversion de la Dette Tunisienne.

Le Sénat et la Chambre des Députés ont adopté,

Le Président de la République promulgue la Loi dont la teneur suit:—

Article 1^{er}. Conformément aux dispositions de l'Article 2 de la Loi du 9 Avril, 1884, Son Altesse le Bey de Tunis est autorisé à convertir en un Emprunt 3½ pour Cent amortissable dans un délai maximum de quatre-vingt-dix-neuf ans, l'Emprunt 4 pour Cent Perpétuel, garanti par le Gouvernement de la République Française, en vertu de l'Article II de la Convention passée entre le dit Gouvernement et Son Altesse le Bey, le 8 Juin, 1883.

Art. 2. Est approuvé le Décret Beylical, en date du 17 Décembre, 1888, relatif à la conversion des 315,376 obligations de 500 fr. 4 pour cent de la dette du Gouvernement Tunisien.

A partir de la conversion exécutée en vertu de ce Décret, la garantie accordée par le Gouvernement de la République Française aux obligations 4 pour cent de la dette du Gouvernement Tunisien, en exécution du Décret du 28 Mai, 1884, est transportée aux 348,815 obligations 3½ pour cent à réaliser dans les conditions visées par le Décret Beylical en date du 17 Décembre, 1888.

Art. 3. La garantie du Gouvernement Français s'exercera pendant quatre-vingt-dix-neuf ans, à courir de la conversion autorisée par la présente Loi.

La présente Loi, délibérée et adoptée par le Sénat et par la Chambre des Députés, sera exécutée comme Loi de l'État.

Fait à Paris, le 9 Février, 1889.

(Signé) CARNOT.

Par le Président de la République:

Le Ministre des Affaires Étrangères,

(Signé) RENÉ GOBLET.

Le Ministre des Finances,

(Signé) P. PEYTRAL.

Décret du 19 Djoumadi-et-Tani, 1306 (20 Février, 1889).

(Louanges à Dieu.)

Article 1^{er}. L'émission des 348,815 obligations 500 fr. 3½ pour cent s'effectuera le 7 Mars, 1889, au taux de 482 fr. 50 c.

Art. 2. Les détenteurs d'obligations 4 pour cent de la dette Tunisienne qui voudront être remboursés devront en faire la demande et effectuer, en même temps le dépôt de leurs titres du 25 Février au 7 Mars, 1889, inclusivement.

Art. 3. Le remboursement des obligations déposées en exécution de l'Article 2 du présent Décret aura lieu à partir du 22 Mars, 1889.

Art. 4. Les intérêts courus à la date du 22 Mars, 1889, assignés pour le remboursement des obligations 4 pour cent seront payés en même temps que le capital de ces obligations.

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Le montant de tout coupon à échoir qui ne pourrait être représenté sera déduit du capital à rembourser.

Art. 5. Les obligations de la Dette Tunisienne 4 pour Cent, dont le remboursement n'aura pas été demandé dans les délais fixés par l'Article 2 du présent Décret, seront échangés, titre pour titre, contre des obligations 3½ pour cent nouvelles portant jouissance du 23 Mars, 1889.

Cet échange aura lieu à partir du 8 Mars.

Au moment de l'échéance des titres et indépendamment des intérêts à 4 pour cent courus du 1^{er} Janvier au 22 Mars, 1889, il sera payé aux ayants droit une soulte de 22 fr. 50 c. par obligation 4 pour cent présentée à l'échange.

Le montant de tout coupon à échoir qui ne pourrait être représenté sera déduit de la somme représentant la soulte à payer.

Il pourra être délivré aux ayants droit des titres provisoires.

La remise des titres définitifs devra s'effectuer au plus tard à partir du 1^{er} Juillet, 1889.

Art. 6. Les opérations à effectuer en exécution du présent Décret seront réalisées en Tunisie: aux Caisses publiques du Gouvernement Beylical, à la Banque de Tunisie, et à la Compagnie Algérienne; en France, aux Caisses dont la désignation sera portée à la connaissance du public par voie d'affiches.

L'expiration du délai pendant lequel les opérations pourront s'effectuer aux Caisses autres que celles du Gouvernement Tunisien sera ultérieurement fixée.

Vu pour promulgation et mise à exécution.

Le Ministre Plénipotentiaire, Résident-Général
de la République Française,
(Signé) J. MASSICAULT.

Tunis, le 21 Février, 1889.

No. 127.

The Earl of Lytton to the Marquis of Salisbury.—(Received March 4.)

(No. 113.)

My Lord,

Paris, March 2, 1889.

I HAVE the honour to transmit herewith copy of a note I received this morning from M. Spuller, in reply to the representations contained in the Memorandum which I addressed to his Excellency's predecessor on the subject of the dismissal of Mr. Levy from the service of the Tunisian Government, a copy of which I forwarded to your Lordship in my despatch No. 83 of the 20th ultimo.

I have, &c.
(Signed) LYTTON.

Inclosure in No. 127.

M. Spuller to the Earl of Lytton.

M. l'Ambassadeur,

Paris, le 28 Février, 1889.

APRÈS les communications échangées, d'une part, entre mon prédécesseur et votre Excellence, d'autre part, entre notre Ambassadeur à Londres et Lord Salisbury, le Gouvernement de la République espérait qu'il n'aurait plus à revenir sur les déclarations qu'il a déjà faites touchant la prétendue obligation qui aurait été imposée par l'Administration Tunisienne aux fonctionnaires étrangers qu'elle emploie, d'opter entre leur nationalité ou leur place.

Dans un Mémoire adressé à M. Goblet le 17 de ce mois, votre Excellence insiste cependant de nouveau sur cette question, et je dois mettre fin à un malentendu qui se repose à mes yeux sur aucun fondement sérieux et qui ne saurait se prolonger sans inconvénient, aussi bien pour vos nationaux dans la Régence que pour le Gouvernement Tunisien.

Voici, en substance, les informations que j'ai réunies, tant auprès de mon collègue de la Justice, qu'auprès de notre Résident-Général à Tunis, que mon prédécesseur avait prié d'ouvrir une enquête sur cette affaire.

Bien loin d'obliger ou même d'encourager les fonctionnaires qui font partie de l'Administration Beylicale à se faire naturaliser Français, le Gouvernement du Protectorat ne transmet à Paris qu'avec une extrême circonspection les demandes de cette nature qui lui sont adressées en très grand nombre. Cette réserve s'explique par ce fait que la naturalisation Française, tout en étant facilitée dans une certaine mesure aux étrangers qui se sont fixés dans un pays soumis à notre Protectorat, n'en est pas moins, votre Excellence le sait, considérée comme une faveur, et n'est accordée qu'aux personnes justifiant de titres et de références exceptionnelles. Parmi les demandes qui ont été soumises ainsi par l'intermédiaire de mon Département au Ministère de la Justice et au Conseil d'État, le plus grand nombre ont été écartées. Un total de vingt-neuf demandes seulement ont été accueillies depuis l'établissement de notre Protectorat, c'est-à-dire, depuis huit années.

Dans ces conditions, vous comprendrez la surprise avec laquelle le Gouvernement de la République s'est vu saisi des réclamations qui lui ont été adressées, soit par l'intermédiaire de votre Ambassade, soit par notre Résident-Général à Tunis, et j'ai dû rechercher avec soin l'origine des allégations qui ont été produites à ce sujet.

En premier lieu, je ne saurais trop répéter combien il est regrettable que le Représentant Anglais à Tunis n'ait pas cru devoir, avant de saisir son Gouvernement de plaintes aussi nouvelles et aussi inattendues que celles dont vous m'entretenez, consulter notre Résident-Général. Il est certainement à votre connaissance qu'aucun effort n'est épargné par nous à Tunis pour résoudre d'une manière conciliante et sur place les difficultés, de quelque nature qu'elles soient, qui peuvent s'élever entre le Gouvernement du Protectorat et les habitants Européens de la Régence sans distinction de nationalité; Mr. Ricketts n'aurait eu, j'en suis convaincu, qu'à s'adresser directement à M. Massicault pour obtenir de lui les éclaircissements qui vont suivre et qui eussent évité à votre Gouvernement d'intervenir dans cette affaire.

Le Gouvernement du Protectorat n'a pas eu la moindre intention de modifier la situation des fonctionnaires étrangers qu'il emploie. Quatre agents seulement—trois Italiens et un Anglo-Maltaise, le Sieur Lévy—se sont trouvés atteints par ce fait que, comme votre Excellence le sait, leurs bureaux sont au nombre de ceux qui doivent fournir aux expéditeurs de produits Tunisiens importés en France des certificats d'origine. Ces certificats, destinés exclusivement à nos Douanes, ne pouvant être délivrés que par des Français, les quatre fonctionnaires en question ont dû renoncer à leur emploi. Cependant, ces agents s'étant acquis par leurs services antérieurs des titres à la sollicitude du Gouvernement, divers moyens de sauvegarder leurs intérêts ont été examinés spontanément par l'Administration Tunisienne. En premier lieu cette Administration a exprimé le vœu que si les agents dont il s'agit formulaient, comme d'autres fonctionnaires venaient de le faire antérieurement, une demande de naturalisation, cette demande fût recommandée à toute la bienveillance de l'Administration Supérieure. C'est cette marque de sollicitude de l'Administration Tunisienne envers ses agents qui a été représentée comme une tentative de pression exercée dans un but politique, et contrairement à toutes les traditions du Gouvernement du Protectorat. Cette interprétation est inexplicable, non seulement en raison des précédents que j'ai mentionnés plus haut, mais encore par ce motif que, si l'Administration Tunisienne avait obéi aux intentions qu'on lui a prêtées, elle avait la faculté de recourir à d'autres mesures qui lui eussent permis, sans donner lieu à aucune réclamation, de substituer des Français aux quatre agents dont il s'agit. L'esprit de modération et de bienveillance dont elle a fait preuve est donc, en réalité, le seul point de départ des accusations injustifiées dont elle a été l'objet.

Le Sieur Lévy, pour me borner à la situation du seul fonctionnaire Anglo-Maltaise qui fasse l'objet de votre Mémoire, le Sieur Lévy ayant manifesté ses intentions de manière à ce que l'Administration des Douanes ne puisse le maintenir à Mehedia, rien n'a été négligé pour compenser le préjudice que cet agent se trouvait éprouver. Il a été décidé que son traitement intégral continuerait à lui être payé, non seulement pendant une année, comme vous en avez été informé, mais pendant dix-huit mois, ce qui équivaut à lui avoir accordé un demi-traitement de disponibilité pendant trois ans. Je ne vois rien que de bienveillant dans cette décision, qui place l'agent en question dans une situation certainement aussi avantageuse que s'il avait appartenu à une Administration Européenne et, pour ce qui concerne la France, ce n'est qu'à titre exceptionnel que nos fonctionnaires jouissent pendant une période aussi longue

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d'un semblable traitement d'inactivité. Encore ces fonctionnaires ont ils versé durant toute leur carrière une partie de leurs appointements à la caisse des retraites, et se sont par conséquent acquis des droits auxquels ne sauraient prétendre les fonctionnaires Tunisiens.

Je veux croire que ces éclaircissements permettront à votre Excellence d'édifier le Gouvernement de la Reine une fois de plus sur les intentions amicales dont le Gouvernement du Protectorat n'a jamais cessé d'être animé envers les sujets Britanniques, intention dont il donne chaque jour des preuves nouvelles en conservant ou en appelant à son service un nombre considérable d'Anglo-Maltais.

Agréer, &c.
(Signé) E. SPULLER.

No. 128.

Foreign Office to Consul Ricketts.

(No. 25.)

Foreign Office, March 5, 1889.

Sir, I AM directed by the Marquis of Salisbury to acknowledge the receipt of your despatches Nos. 7 and 10 of the 15th January and 18th ultimo respectively, in regard to real property in Tunis, and to state to you that no action will be taken upon them until the receipt of your reply to his Lordship's despatch No. 10, Confidential, of the 18th January upon the same subject.

The last-named despatch was sent to you by bag, via Malta, on the 6th ultimo.
I am, &c.

(Signed) P. CURRIE.

No. 129.

Consul Ricketts to the Marquis of Salisbury.—(Received March 6.)

(No. 12. Confidential.)

Tunis, February 25, 1889.

My Lord,

I HAVE the honour to inform your Lordship that the floating dock, which has been in process of construction at Bizerta during the last two months, will be set up some time in April. It is of small dimensions, and intended for torpedo-boats or small gun-vessels.

A mine torpedo has been lately placed at some short distance from the shore near the entrance. It being intended some time or other to fortify Bizerta, plans have, I am told, been made of two forts, the one to be constructed on Jebel Kabir, and the other off Cape Guardia; the fire from these would cross on the line of entrance. There are, however, no signs manifested at present of any works of this description being likely to be commenced.

A Contract has, I am told, been made with a certain M. Lesueur for the alteration of the breakwater at Bizerta, a part of which has been washed away, and which, up to the present, has proved of little utility. The Contract is for the small sum of about 200,000 fr. or 300,000 fr.

The Trans-Atlantic steamers will ere long be ordered to touch at the above-mentioned port.

A large staff of officers has lately arrived at Tunis with the view, it is said, of making a geodesical survey of the Regency.

I have, &c.
(Signed) G. T. RICKETTS.

No. 130.

Consul Ricketts to the Marquis of Salisbury.—(Received March 6.)

(No. 13.)

My Lord,

Tunis, February 27, 1889.

WITH reference to my despatch No. 10 of the 18th February, I have the honour to transmit herewith inclosed an extract of the case submitted in appeal to the Court of Algiers, from which it appears that the Court of Tunis was held incompetent. It will, however, be noticed that this was a matter in which the parties to the suit were both Tunisians and not foreigners.

I have, &c.
(Signed) G. T. RICKETTS.

Inclosure in No. 130.

Extract from the "Tunis-Journal" of February 26, 1889.

UN JUGEMENT DE LA COUR D'APPEL D'ALGER.—Il y a quelques jours, le bruit circulait en ville que la Cour d'Appel d'Alger avait contesté au Tribunal de Tunis la compétence en matière immobilière.

Cette nouvelle étant d'une gravité extrême pour la Tunisie, nous publions ci-dessous le Jugement qui a donné naissance à ce bruit.

Nous ferons remarquer que les faits ont été exagérés et que, dans l'espèce, il ne s'agit pas simplement d'une question immobilière, mais bien d'une question immobilière compliquée d'une question religieuse et d'une question de statut personnel.

Ce document étant de nature à intéresser nos lecteurs, nous le publions *in extenso*.
J. M.

COUR D'APPEL D'ALGER.

Audience Publique du 26 Janvier, 1889.

Entre: (1) La Dame Salah-bent-Ahmed-ben-Ali, veuve Sidi Ahmed-ben-Amor Karkouba; (2) Abderrhaman-ben-Ahmed-ben-Amar, appelants, d'une part;

Et (1) La Dame Salah-bent-Ahmed Garsallah, épouse divorcée d'Ali-ben-Naceur, à Tunis; (2) La Dame Halina-bent-Ahmed Garsallah, épouse divorcée du Sieur Embarek-ben-Khemzar, intimées, d'autre part.

La Cour,

Où, &c.

Attendu que l'appel est régulier et recevable en la forme;

Sur la compétence:

Attendu que Salah et Halima-bent-Ahmed Gharsallah, sujets Tunisiens, se prétendant dévolutaires, à défaut de descendants mâles, d'un "habbous" constitué par le Cheik Gharsallah sur un immeuble dit El-Kelbia, ont assigné devant le Tribunal de Tunis les consorts Karkouba, également sujets Tunisiens;

1. En paiement de loyers échus, en vertu d'un bail à "kirdar" de l'immeuble "habbousé";

2. En nomination d'experts pour estimer la plus value de cet immeuble pendant les six dernières années;

3. En déguerpissement;

Attendu que les consorts Karkouba ont contesté aux demanderesses la qualité de dévolutaires du "habbous" et opposé à la demande en déguerpissement leur droit, fondé sur les règles du contrat de "kirdar," de jouir de l'immeuble tant que dureront les constructions qu'ils y ont élevées;

Attendu que le "kirdar" est un contrat qui a pour effet de donner au preneur un droit d'établissement sur la superficie d'un immeuble inaliénable par suite de fondation pieuse, moyennant une redevance variable suivant que l'immeuble acquiert une plus-value ou subit une moins-value ;

Attendu que le litige dont le Tribunal était saisi avait, dès lors, pour objet, à la fois, l'application d'un droit immobilier et l'interprétation de la loi religieuse Musulmane en matière de "habbous ;"

Attendu que l'établissement du Protectorat Français en Tunisie n'a pas aboli la souveraineté du Bey ;

Que la France et le Bey y exercent leur souveraineté dans leurs sphères respectives, déterminées par les Traités Internationaux ;

Que la juridiction Française instituée en Tunisie est une émanation de ces deux Puissances distinctes ;

Que la Loi du 27 Mai, 1883, qui a organisé les Tribunaux Français dans la Régence, a délimité leur compétence en conséquence de cette double origine en disposant qu'ils connaîtraient de toutes les affaires, civiles et commerciales, entre Français et protégés Français, et que leur juridiction pourrait être étendue à toutes autres personnes par Décrets ou Arrêtés de Son Altesse le Bey, rendus avec l'assentiment du Gouvernement Français ;

Que, conformément à cette dernière disposition, un Décret du Bey, en date du 5 Mai, 1883, a décidé que les sujets des Puissances étrangères, dont les Cours Consulaires dans la Régence seront abolies, deviendront justiciables de ces Tribunaux aux mêmes conditions que les sujets Français ;

Que, par un autre Décret du 31 Juillet, 1884, le Bey a étendu la juridiction des mêmes Tribunaux à toutes les affaires civiles et commerciales dans lesquelles des Européens seront en cause, dans les matières où ils sont compétents actuellement lorsque des Européens sont défendeurs ;

Mais que, par aucun Décret ou Arrêté, il ne leur a attribué compétence en matière immobilière entre sujets Tunisiens et que, par ce Décret précité du 31 Juillet il a expressément réservé aux Tribunaux religieux le règlement des contestations relatives au statut personnel des mêmes sujets Musulmans ou Israélites ;

Attendu, en conséquence, que le Tribunal de Tunis était incompétent pour connaître du litige qui lui était soumis par les consorts Gharsallah ;

Que cette compétence, touchant à l'ordre des juridictions instituées en Tunisie et aux Traités Internationaux, est essentiellement d'ordre public et peut être opposée en tout état de cause ;

Attendu que, vainement, les intimés objectent que les questions de droit immobilier et de statut personnel religieux soulevées en la cause ont été définitivement tranchées par le Jugement du 27 Octobre, 1886, qui serait passé en force de chose jugée par le désistement d'appel des consorts Karkouba, et que, par suite, les premiers Juges ne restaient saisis que d'une demande purement personnelle et mobilière pour laquelle l'exception d'incompétence ne pouvait être opposée que *in limine litis* ;

Que cette objection n'est point fondée ;

Que, en effet, il résulte de l'acte extra-judiciaire, signifié à la requête des appelants, le 11 Février, 1887, que ceux-ci n'ont consenti à l'exécution du Jugement interlocutoire du 27 Octobre, 1886, qu'en faisant leurs réserves expresses d'interjeter appel en même temps que du Jugement sur le fond,

Par ces motifs :

Reçoit en la forme l'appel des consorts Karkouba, et y faisant droit au fond, infirme le Jugement déferé ;

Dit que le Tribunal de Tunis était incompétent pour connaître de l'action intentée par les intimés, et renvoie les parties à se pourvoir devant telle juridiction que de droit ;

Ordonne la restitution de l'amende consignée sur l'appel, et condamne Salha et Halima-bent-Ahmed Gharsallah en tous les dépens de Première Instance et d'Appel.

The Earl of Lytton to the Marquis of Salisbury.—(Received March 8.)

(No. 122.)

My Lord,

Paris, March 7, 1889.

WITH reference to your Lordship's despatch No. 17 of the 10th January, I have the honour to transmit herewith a Report by M. Clunet, as desired by your Lordship, on the subject of the Decree of the 27th November, 1888, published by order of the Bey of Tunis.

In this Report M. Clunet expresses his opinion that, under the Decree in question, which extends the jurisdiction of the French Courts in Tunis to suits to which the Administration is a party, the position of private persons bringing suits against the Administration is more favourable than in France, where such suits are determined by the Minister or Prefect concerned, and, on appeal, by the Council of State, which is naturally disposed to shield the Administration.

I have, &c.

(Signed) LYTTON.

Inclosure in No. 131*.

Opinion of M. Clunet.

LE Soussigné, Edouard Clunet, Avocat à la Cour de Paris, consulté sur la question de savoir—

Quel est l'effet juridique du Décret promulgué par le Bey de Tunis du 27 Décembre, 1888, organisant la juridiction administrative en Tunisie ? En quoi la nouvelle juridiction diffère-t-elle de celle qui connaît des affaires de même nature dans la métropole ?

A émis l'avis suivant :

1. Nous considérons le régime organisé en Tunisie par le Décret du 27 Décembre, 1888, pour le contentieux administratif, comme plus avantageux pour les justiciables que celui qui leur est imposé dans la métropole.

2. En effet, dans la France continentale, les contestations dont le résultat peut être de faire déclarer l'Administration débitrice—et par ce mot "Administration" il faut entendre l'État, les Départements et les Communes—ne sont pas portées devant les Tribunaux de droit commun (Tribunal Civil, Cour d'Appel). Une juridiction exceptionnelle a été instituée où l'Administration jouit contre les particuliers d'avantages intentionnellement concédés pour ménager à l'Administration des juges favorables.

Dans ces Tribunaux exceptionnels les procès sont décidés au premier degré, tantôt par le Ministre lui-même contre lequel on plaide, tantôt par le Conseil de Préfecture présidé par le Préfet représentant l'État ; au second degré, par le Conseil d'État, corps composé d'hommes distingués, mais n'ayant que le caractère de simples fonctionnaires, et non celui de Juges.

Cette organisation de la juridiction administrative dans la métropole remonte à la Loi du 28 Pluviose, an 8 (1800), c'est-à-dire, à une époque où le rôle de l'État était entendu dans le sens le plus extensif. Dans ces conditions la lutte d'un particulier contre l'Administration est tout à fait inégale ; il faut qu'un particulier ait trois fois raison pour qu'il obtienne d'un Tribunal administratif la condamnation de l'Administration. Les fonctionnaires transformés en Juges estiment, involontairement, qu'il est de leur devoir, tout au moins dans le doute, de sacrifier les intérêts du particulier à ceux de la communauté, dont ils se considèrent professionnellement comme les gardiens.

A plusieurs reprises, et notamment sous la troisième République, des projets de loi, dus à l'initiative privée, ont été déposés à la Chambre des Députés, tendant à la suppression de cette juridiction anormale, et à l'unité de juridiction exercée par la magistrature, pour le contentieux civil et administratif ? Ces projets de loi ont été ajournés à la suite de diverses circonstances. La Tunisie a obtenu du premier coup ce qu'un grand nombre de bons esprits souhaitent de voir s'établir, sans oser y compter, dans la métropole.

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Cette amélioration a été d'une réalisation plus aisée en Tunisie, puisqu'aucun des Tribunaux administratifs dont est dotée la métropole n'existait dans le Protectorat. L'introduction de l'unité de juridiction pour les affaires civiles et administratives ne se heurtait pas à des habitudes difficiles à modifier, surtout quand le premier résultat d'un changement serait d'entraîner la suppression d'un grand nombre de fonctionnaires.

3. L'Article 1^{er} du Décret Beylical attribue expressément aux Tribunaux ordinaires toutes les contestations qui, en France, sans discussion possible, sont réservées aux Tribunaux exceptionnels dont nous venons de parler. Dans cette attribution il faut comprendre notamment les marchés passés pour l'exécution des travaux publics, sans qu'il y ait lieu de distinguer si les travaux sont exécutés par l'État, les Départements, les Communes, ou les établissements publics; les marchés de fournitures, les conventions intervenues entre l'État et les particuliers en matière financière; les contrats de vente ayant pour objet des biens immeubles appartenant à l'État, et d'une manière générale les conventions d'où résulte une créance contre l'État, &c.

Cette énumération s'applique aux engagements nés des contrats. Mais rentreront nécessairement dans la compétence des Tribunaux Civils de Tunisie, tout une autre catégorie de contestations, qui en France relèvent de la juridiction administrative. Nous voulons parler des débats auxquels donneraient lieu les obligations pécuniaires de l'État nées de quasi-contrats, de quasi-délits, et de la loi; par exemple, les demandes d'indemnité formées contre le Trésor Public à raison de faits imputables à l'État ou de fautes commises par ses agents; les demandes en indemnité pour dommages causés par les travaux publics, par les occupations de terrain, les extractions de matériaux se rattachant à ces travaux; les réclamations relatives aux traitements des fonctionnaires à l'assiette et recouvrement de l'impôt direct et des taxes assimilées, &c.

Enfin, le dernier paragraphe de ce même Article attribue aux Tribunaux Civils les actions des autorités administratives contre les particuliers en matière de contraventions spéciales, réservées en France à la juridiction administrative.

4. Le bénéfice de la procédure ordinaire de la juridiction civile est assurée (Articles 2 et 5) à toutes les matières du contentieux administratif: Tribunal Civil au premier degré, Cour d'Appel au second degré.

Sur ce point, l'avantage sur le régime de la métropole appartient encore au régime Tunisien. En France le Juge d'Appel en matière administrative est le Conseil d'État. Ce Conseil, bien que composé de fonctionnaires choisis avec soin, n'offre pas les mêmes garanties de lumière et d'indépendance que les Cours d'Appel ordinaires, constituées de Magistrats de carrière, dont l'indépendance absolue est assurée par l'inamovibilité.

Les affaires administratives jouiront donc en Tunisie, non seulement des deux degrés de juridiction, mais le degré supérieur sera d'un caractère plus satisfaisant qu'en France.

En outre, en matière administrative, en France l'appel ne suspend pas l'exécution du Jugement rendu par la juridiction du premier degré. Le recours au Conseil d'État n'est pas suspensif. Cette règle posée par l'Article 3 du Décret du 22 Juillet, 1806, rappelée et confirmée par l'Article 24 de la Loi du 24 Mai, 1872, est une des règles fondamentales de la procédure administrative.

Au contraire, l'appel déferé à une Cour d'Appel suspend l'exécution du Jugement rendu en premier ressort.

Comme les Cours d'Appel ordinaires connaîtront en Tunisie du contentieux administratif, le plaideur malheureux y aura un avantage qu'il n'aurait pas en France. Son appel aura pour effet de suspendre l'exécution du jugement qui l'aura condamné.

Conséquemment la condition faite en Tunisie aux plaideurs, en matière de contentieux administratif, loin d'offrir des restrictions sur le régime de la métropole en même matière, est au contraire plus favorable.

Fait à Paris, le 4 Mars, 1889.

(Signé) ED. CLUNET.

The Earl of Lytton to the Marquis of Salisbury.—(Received March 7.)

(No. 118.)

My Lord,

Paris, March 4, 1889.

IN my despatch No. 113 of the 2nd instant, I had the honour to transmit to your Lordship a copy of a note which I had just received from M. Spuller in reply to my representation on the subject of the dismissal of Mr. Levy from the Customs Administration of Tunis, and I now beg to inform your Lordship that in conversation with M. Charmes this evening I informed him that I could not conceal my surprise that after the assurances which had been given to me by M. Goblet, and which I recorded in my note of the 17th February to the French Government, a reply couched in language somewhat unusual in an official note should have been addressed to me for transmission to Her Majesty's Government. I said that the reply of the French Government contained no answer to my complaint, that the treatment to which Mr. Levy had been subjected was not in accordance with M. Goblet's assurances, and that the observations as to what would have been the treatment of French functionaries in similar circumstances was entirely outside of the question at issue. Mr. Levy, a British subject, against whom no complaint of any kind was made, was dismissed from a permanent post with a trifling compensation allowance because he had not unnaturally declined to abandon the nationality of which he was born. This was the plain fact. I was quite prepared, as I had stated to M. Goblet, to recognize that from motives of expediency the French Government might think it advisable that special posts should be occupied by Frenchmen, but his Excellency had stated to me that if such steps were found necessary, provision would be made for the employment of these officials elsewhere. This engagement had not been complied with, and it was on this that my remonstrance was founded.

M. Charmes again alluded to the want of cordiality in the relations between the French residents and Her Majesty's Consul, to which he attributed the recurrence of these incidents, but he added that if Her Majesty's Government would be satisfied with the assurance that between this and the expiration of the eighteen (not twelve) months during which Mr. Levy would be on full pay, some other post would be found for him; he thought that the French Government would be prepared to make this concession.

I am not aware whether such an agreement would be agreeable to Mr. Levy, who I believe resides permanently at Mehadia, and I therefore await your Lordship's instructions as to whether this proposal of M. Charmes affords ground for a satisfactory settlement of the question.

I have, &c.

(Signed) LYTTON.

The Earl of Lytton to the Marquis of Salisbury.—(Received March 11.)

(No. 127. Confidential.)

My Lord,

Paris, March 9, 1889.

M. SPÜLLER stated to me yesterday in the clearest manner that the French Government bound themselves to provide employment for Mr. Levy before or at the termination of the eighteen months, during which he will be allowed to draw full pay on being relieved of his functions as Receiver of Customs at Mehadia, and so confirmed the promise which had been made to me by M. Charmes, as reported in my despatch No. 118 of the 4th instant.

The French Government are, however, unwilling to give any written undertaking to this effect, as M. Spüller states that it would at once become known in Tunis, and would render them liable to pressure of a similar kind being applied from other quarters.

I have, &c.

(Signed) LYTTON.

The Marquis of Salisbury to the Earl of Lytton.

(No. 111.)
My Lord,

Foreign Office, March 11, 1889.

I HAVE received your Excellency's despatches Nos. 113 and 118 of the 2nd and 4th instant respectively, upon the subject of the dismissal of Mr. Levy from the Customs Administration of Tunis.

In conveying to your Lordship my approval of the language used by you to M. Charmes, as reported in the later of those despatches, I have to state that Her Majesty's Government consider that the proposal of the French Government to find some other post for Mr. Levy at the expiration of the eighteen months during which he remains on full pay, offers ground for a satisfactory settlement of the case.

I am, &c.
(Signed) SALISBURY.

No. 134.

Foreign Office to Admiralty.

Sir,

Foreign Office, March 11, 1889.

WITH reference to the letter from this Office of the 2nd ultimo, I am directed by the Marquis of Salisbury to acquaint you that a telegram has been received from Her Majesty's Consul at Tunis, in which he states that the despatch-bag sent to Malta on the 7th ultimo, which was to have been forwarded on to him by the Admiral in command, has not yet reached him.

I am to request that you will move the Lords Commissioners of the Admiralty to cause his Lordship to be informed of the date on which the bag in question left Malta.

I am, &c.
(Signed) JULIAN PAUNCEFOTE.

No. 134*.

Foreign Office to Consul Ricketts.

(No. 27.)
Sir,

Foreign Office, March 16, 1889.

WITH reference to your despatch No. 8 of the 21st January, I am directed by the Marquis of Salisbury to transmit to you the accompanying copies of correspondence, as marked in the margin,* upon the subject of the dismissal of Mr. Levy from the Customs Administration of Tunis.

You will observe that the French Minister for Foreign Affairs, in his Excellency's note to the Earl of Lytton of the 28th ultimo, denies that Mr. Levy was pressed to adopt French nationality, or that his dismissal is due to his refusal to surrender his British nationality. M. Spuller explains that he and the three Italian officials, who, like him, have been replaced by Frenchmen, would have had to issue certificates of origin of Tunisian produce imported into France, which certificates, being required exclusively for French Custom-houses, should be issued by French citizens only; and he adds that Mr. Levy is to be retained on full pay for eighteen months, and not for one year only, as stated in your despatch.

The offer made by the French Government to find some post for Mr. Levy at the end of this term, if not earlier, offers ground for a satisfactory settlement of the case; and I am to instruct you, in communicating the substance of the foregoing to the gentleman named, to inform him that Her Majesty's Government so considers it, and would advise its acceptance.

I am, &c.
(Signed) P. CURRIE.

Foreign Office to Consul Ricketts.

(No. 28. Confidential.)
Sir,

Foreign Office, March 16, 1889.

I AM directed by the Marquis of Salisbury to acquaint you, with reference to my despatch No. 27, that Her Majesty's Ambassador at Paris has reported that the French Government explicitly confirm their previous promise to provide employment for Mr. Levy before or on the termination of the eighteen months, during which he will be allowed to draw full pay, but that the French Government are unwilling to give any written undertaking to this effect, lest it should at once become known in Tunis, and render them liable to similar pressure from other quarters.

I am, &c.
(Signed) P. CURRIE.

No. 136.

Consul Ricketts to the Marquis of Salisbury.—(Received March 21.)

(No. 14.)
My Lord,

Tunis, March 11, 1889.

I HAVE the honour to inform your Lordship that the Resident of Tunis, M. Massicault, leaves this day for Paris to consult, it is said, with M. Spuller in reference to the future policy to be observed in this Regency.

M. Massicault will, I believe, be absent from two to three weeks, and is replaced by the French Consul, M. Regnault.

I have, &c.
(Signed) G. T. RICKETTS.

No. 137.

Consul Ricketts to the Marquis of Salisbury.—(Received March 21.)

(No. 16.)
My Lord,

Tunis, March 11, 1889.

I AM informed that one battalion of Algerian light infantry of six companies, lately raised in Algiers, No. 4, will be shortly stationed at Bab-el-Oued, in the Tunis district. This battalion is not at present complete in numbers, and will be filled up, I am told, by Tunisian recruits.

I have, &c.
(Signed) G. T. RICKETTS.

No. 138.

Consul Ricketts to the Marquis of Salisbury.—(Received March 26.)

E
(No. 17.)
My Lord,

Tunis, March 19, 1889.

I HAVE the honour to transmit herewith inclosed to your Lordship a Decree of the Bey in reference to the marking out a new boundary-line between Algiers and Tunis, for the purpose, it is affirmed, of putting an end to tribal disputes on the part of the frontier lying between Tebessa and Chott Rharsa.

If these disputes have existed they cannot have been of any great importance, nothing having been heard about them at Tunis.

I have, &c.
(Signed) G. T. RICKETTS.

Inclosure in No. 138.

Décret du 19 Sfar, 1306 (25 Octobre, 1888).

(Louanges à Dieu.)

VU l'accord intervenu entre notre Gouvernement et celui de l'Algérie à l'effet de désigner deux Délégués ayant pour mission de déterminer les limites qui sépareront définitivement les tribus Tunisiennes des Od. Nedji, Od. Ouazez, Od. Sidi Abdel Melek, Od. Sidi Tlili, Od. Slama, Od. Sidi Abid, Od. Sidi Abid-el-Hemadi, Tamerza, et Urdès, des tribus Algériennes des Od. Sidi Abid, Brarcha, et Alaouna, depuis le Khanguet-el-Mouhad jusqu'au Chott Borne;

Attendu que, conformément à cet accord, ont été désignés :

M. Simon, Lieutenant au 77^e Régiment d'Infanterie, officier de renseignements de première classe du Cercle de Gafsa, par notre Gouvernement, et M. Minet, Lieutenant au 63^e Régiment d'Infanterie, adjoint de première classe au Bureau Arabe de Tébessa, par le Gouvernement de l'Algérie;

Vu le Rapport de la Commission et les procès-verbaux accompagnés d'un plan fixant les limites qui ont été signés d'un commun accord le 1^{er}, le 4, le 6, le 7, et le 8 Mai, 1888;

Considérant qu'il importe de mettre un terme à toutes contestations entre les tribus Tunisiennes et les tribus Algériennes susmentionnées,

Nous avons pris le Décret suivant :

Article 1^{er}. Sont approuvées les limites déterminées et indiquées dans les procès-verbaux, le rapport, et le plan susvisés, qui resteront annexés au présent Décret pour faire foi en cas de besoin.

Art. 2. Notre Premier Ministre est chargé de l'exécution du présent Décret.

Vu pour promulgation et mise à exécution.

Le Ministre Plénipotentiaire, Résident-Général
de la République Française,
(Signé) J. MASSICAULT.

Tunis, le 4 Mars, 1887.

No. 139.

Consul Ricketts to the Marquis of Salisbury.—(Received March 26.)

(No. 19.)

My Lord,

I HAVE the honour to transmit herewith inclosed to your Lordship a Notice, from which it appears that the railways are to be extended from Djedeida, near Tunis, to Bizerte, and from Tunis to Susa, with branches to Nebeul, Kairouan, and Zaghuan.

I have, &c.

(Signed) G. T. RICKETTS.

Tunis, March 19, 1889.

Inclosure in No. 139.

DIRECTION GÉNÉRALE DES TRAVAUX PUBLICS.

Avant-projet des Chemins de Fer de Tunis à Bizerte, au Sahel et à Zaghuan.

ENQUÊTE ADMINISTRATIVE.

Avis.

LE public est prévenu qu'une enquête d'un mois est ouverte sur les avant-projets étudiés par la Compagnie de Bône-Guelma, en vue de l'établissement de chemins de fer dans les directions ci-dessus indiquées :—

1. De Djedeida à Mateur et Bizerte.
2. De Tunis à Sousse, avec embranchements sur Nebeul, sur Kairouan, et sur Zaghuan.

Les intéressés donneront leur avis sur le degré d'urgence des lignes et de leurs embranchements, soit sur les tracés, soit sur les emplacements proposés pour les stations.

Ils feront connaître, en même temps, les offres de concours, en argent, terrain, ou matériaux, &c., qu'ils s'engageraient à fournir pour faciliter l'exécution de ces lignes.

A cet effet, un exemplaire des avant-projets accompagné d'un registre d'enquête, sera déposé à chacun des Contrôles Civils de Tunis, de Bizerte, de Nebeul, de Kairouan, et de Sousse.

Les observations devront être inscrites sur le registre et signées.

Des avis insérés au "Journal Officiel" feront connaître, pour chaque Contrôle, les jours et heures auxquels les dossiers seront mis à la disposition du public.

Les registres seront ouverts, le Lundi, 18 Mars courant, et arrêté le 17 Avril au soir.

Le Directeur-Général des Travaux Publics,
(Signé) MICHAUD.

Tunis, le 8 Mars, 1889.

No. 140.

Consul Ricketts to the Marquis of Salisbury.—(Received March 26.)

(No. 20.)

My Lord,

Tunis, March 19, 1889.

A FEW days ago M. Regnault, the Acting Resident, sent to me to know if I was willing to name some one (a doctor of medicine) who, representing the British community, would act on the Commission established by a Decree of the 3rd January, 1889, a copy of which is herewith inclosed.*

I told M. Saserach de Forge that I should be very glad to assist the Commission, but that I could not take any steps in this matter without first informing Her Majesty's Government; adding, at the same time, that, if such a course was adopted, it would, I thought, be right that the Bey's Government should, on their side, give a written declaration to the effect that the houses of British subjects should not be entered without the consent of this Consulate, this being in accordance with the Treaties bearing on this matter and the rights acknowledged by the Capitulations. My Italian colleague, who entertains the same opinion on this matter, has, I believe, written thereon to his Government.

It will be observed from the constitution of this Commission that, there being some fourteen French members, the English and Italian Representatives, on any question arising, would invariably find themselves in the minority.

I have, &c.

(Signed) G. T. RICKETTS.

No. 141.

Consul Ricketts to the Marquis of Salisbury.—(Received March 28.)

(No. 21.)

My Lord,

Tunis, March 19, 1889.

I HAVE the honour to transmit herewith inclosed to your Lordship an affidavit made in this Consulate by Mr. G. Licari, a British subject, spoken of in my despatch No. 32 of the 24th December last year.

In this affidavit Mr. Licari complains—

1. That, on the 17th October, 1888, he had been condemned by the French Tribunal to pay 200 fr. because he broke the seal placed on a cask of wine by the authorities.

2. That, on the 20th December last, the authorities of the Municipality, accompanied by the police, entered his premises and sealed up five qualities of liquors, the product of his manufacture, amounting to 3,000 litres, without permitting him to retain any samples, or to allow any samples to be retained for the inspection of this Consulate.

3. That the French Tribunal had condemned him to fifteen days' imprisonment, together with a fine of 500 piastres and the destruction of the goods seized in value of

4,000 fr. notwithstanding samples of the same stuff had been examined by other experts in Paris and Tunis, and found perfectly good; in addition to which, the sentence is to be published in the two principal newspapers of this place.

4. That his three brothers, two of whom were employed by him, were condemned to eight days' imprisonment and a fine of 300 piastres each.

As regards the first point, on the 2nd August, 1888, an order was issued by the Municipality of Tunis, stating that wine containing "acide salicylique" (i.e., salicylic acid), and in which there may be found more than 3 grains of sulphate of potash per litre, was injurious to the health, and that it was to be thrown away.

In consequence of this order I called on the Acting Resident, told him that, as this wine had been allowed to be imported, and as, according to the declaration of the most respectable merchants, it did not contain more than 4 grains of sulphate of potash and no "acide salicylique," such a measure would prove prejudicial to the interest of our traders. On this M. Regnault agreed that no action should then be taken, and that two months should be allowed, during which the wine on hand might be sold. After this, the wine merchants were to conform to the orders issued.

Mr. Licari, who is one of the principal traders here, and who appears to have had one of his casks sealed up, finding that the seal was not taken off by the authorities, twenty days having expired out of the two months, broke the seal so as to take advantage of the delay given. On account of this, he was fined by the French Tribunal 200 fr. I must say that this sentence appears to me to have been very severe, and not warranted by the act complained of.

As regards the second point, Mr. Licari's advocate having contended that the samples did not contain anything prejudicial to health, demanded that some of them before the Court should be sent to Paris or given to other experts to be examined, but this was not allowed, the Court stating that they had been already sufficiently analyzed, and that those analyzed privately through Mr. Licari were probably of a different quality. I myself, when I heard of the seizure in question, sent the interpreter of this Consulate to the Procureur, and requested also that certain of the samples should be intrusted to this Consulate. This, too, was refused. During the trial also Mr. Licari's advocate endeavoured to find out what was the proportion of "l'huile de goudron" which Mr. Licari had been accused of mixing with his liquors, but the analysis of the Government experts was not put forward, so that it could be examined either by Mr. Licari's lawyers or doctor; and this is the very essence of the case, it being an ascertained fact that "l'huile de goudron," in certain quantities thus used, is not prejudicial to health. The sentence, therefore, of the French Tribunal would from this appear to me to have been very arbitrary, and, even if legal by French law, it is certainly not equitable, Mr. Licari having been thus deprived of the means of proving his innocence.

Further, it is not easy to understand if Mr. Licari be held responsible, why his employés should be subject to any imprisonment or fine. For if this principle be admitted, the servant would then be made liable for the acts of his master, a matter altogether unreasonable.

In conclusion, I would especially beg to draw your Lordship's attention to that part of the affidavit in which Mr. Licari states that, on the 20th December last, his house was entered by the Municipal authorities, accompanied by the police, and his goods sealed up and sequestered to the value of 4,000 fr.

Here then would appear to have been an entrance of domicile by the Municipal authorities and the police. No notice, I am told, was served on Mr. Licari by an order of the Court. The Commissaire of the Police himself, who placed the seals on the goods in Mr. Licari's establishment, told M. Carbonaro that this was done by the order of the Municipality, and not by order of the Procureur or Tribunal, adding, at the same time, that the President of the Municipality is an assistant of the Procureur, and that he has a right to act in that capacity. As, however, no such power was invested in the President of the Municipality and the Chief of the Police, according to the terms of the Act of 1883, one is led to the conclusion that this conduct of the Municipal authorities was in this country, whatever it may be considered in France, a usurpation of that power which alone belonged to the French Court, and, if this be admitted, ought not the seizure of this property to be held illegal?

Should your Lordship be of opinion that the entrance of the establishment of Mr. Licari, as above described, was contrary to the terms of the Act of 1883, and a violation of the rights mentioned in Article V of the Treaty of 1875, and in the Treaty of 1868, together with those derived from the Capitulations acknowledged in Article II of the Italian Treaty of 1884, it is to be hoped that representations will be

permitted to be made on this subject at Paris, with the view of stopping any further proceedings, and indemnifying Mr. Licari for his losses sustained.

Mr. Licari's actual losses are 6,750 fr. In addition to this, if the act of the authorities be held illegal, he is entitled to something for the damage caused to his business.

I did not enter a protest at the time of the seizure, having only received your Lordship's instruction on this subject of the 20th February, despatch No. 22, a short time ago.

It is here worthy of remark that about the same day a French subject named Girou was condemned only to a fine of 300 piastres, whereas Mr. Licari was condemned, as before mentioned, to a fine of 500 piastres, fifteen days' imprisonment, and the publication of his supposed fault in two newspapers of this place.

Herewith inclosed will be found the opinion given by Dr. Casanello, a witness of Mr. Licari in this case.

I have, &c.
(Signed) G. T. RICKETTS.

Inclosure 1 in No. 141.

Affidavit of Mr. G. Licari.

(Translation.)

I, THE Undersigned, Giuseppe Licari, a merchant and British subject residing at Tunis, make oath and say, that on about the end of November last some persons employed by the Municipality presented themselves at my establishment, Rue d'Espagne, and asked for samples of all sorts of liquors manufactured by me. I made no opposition, and delivered to them what they asked for, because I thought I had no right to offer resistance, as, in a similar case a few months previous, I had recourse to the Consulate without any result, having been condemned by the French Tribunal of Tunis to pay 200 fr. because I had broken the seal of a cask of wine, but this was after the permission granted by the authorities to sell the same wine within two months, of which about twenty days had already elapsed without the Municipality having taken the trouble to take away the seal, that I might enjoy the term granted for the sale of my wine.

Subsequently to this, on about the 20th December, 1888, the same persons of the Municipality, accompanied by the police, on a Sunday came to my establishment, and put under seal five sorts of liquors manufactured by me, about 3,000 litres, without even allowing me to retain samples in order to control the examination of the chemist employed by the Government. I have also asked for samples through the medium of the British Consulate, but in vain.

I have other deposits of the same liquors, which I have had examined by chemists of Paris and Tunis, with results always in my favour; but the Tribunal has condemned me, stating that, as all the quantity in my establishment had been seized, I might have ordered better qualities to be examined. Consequently, I have been condemned to pay a fine of 500 piastres, fifteen days' imprisonment, and the destruction of the goods sequestered of the value of about 4,000 fr. And not solely this, but my three brothers also were condemned because two of them are employed by me and the other because in his shop he sold liquors manufactured by me, say eight days' imprisonment and 300 piastres each as a fine. I have appealed to this Judgment, which I consider iniquitous.

(Signed) G. LICARI.

Tunis, March 16, 1889.

Sworn at Tunis this 16th day of March, 1889.

Before me,
(Signed) G. CARBONARO, British Pro-Consul.

Inclosure 2 in No. 141.

Extract from the "Tunis-Journal."

M. le Rédacteur-en-chef du "Tunis-Journal,"

Tunis, le 14 Mars, 1889.

DANS un article intitulé: "Police Correctionnelle; les liqueurs frelatées," paru dans le Numéro 599 de votre journal du 9 Mars courant, à propos des débats qui ont eu lieu le 27 Février dernier, relativement à l'affaire Giuseppe Licari, vous vous êtes

permis des appréciations, à mon égard, auxquelles, personnellement, je n'aurais attaché aucune importance; mais, en ce qui a rapport à Mr. Licari, qui a bien voulu me confier le soin de ses intérêts les plus chers en me chargeant de l'analyse des produits de sa fabrication, je me crois dans le devoir de relever énergiquement ces appréciations erronées et de les réfuter comme elles le méritent.

Il ne m'appartient pas de discuter ici la valeur d'analyses contradictoires exécutées sur les mêmes liqueurs, à deux époques différentes, par le personnel du laboratoire de chimie, agricole et industrielle de la Régence.

J'ai encore moins à me préoccuper des titres académiques et du mérite scientifique des chimistes du Gouvernement Tunisien, et surtout de la compétence et du savoir du chimiste distingué qui dirige le laboratoire Beylikal.

Ce qui m'intéresse, moi, c'est que les faits qui me touchent de près, et qui ont un rapport immédiat à la question Licari, ne soient pas dénaturés, comme cela a eu lieu, sans doute involontairement, dans le compte rendu de votre chroniqueur.

Je me permets donc de faire appel à votre impartialité bien connue pour que vous veuillez bien, aux termes de la loi, insérer la présente rectification dans l'un des plus prochains numéros de votre journal.

Appelé devant le Tribunal Correctionnel de Céans, comme témoin dans l'affaire Licari, j'ai déclaré, après serment prêté, qu'ayant examiné chimiquement six échantillons de la maison Licari (sirop de gomme, sirop de groseilles, cassis fin, liqueur de menthe, rhum, et fernet), et dix échantillons de matières premières qui servent à leur fabrication (alcool, sucre, suc de groseilles, suc de framboises, essence de menthe, caramel, orseille, couleur d'indigo et curcuma), je n'avais rien trouvé qui pût être considéré comme nuisible à la santé. Et, encore aujourd'hui, publiquement, sur mon âme et conscience, je confirme complètement cette déclaration.

D'ailleurs, ces résultats, contrairement à ce qui a été affirmé dans votre journal, ont été confirmés entièrement par les analyses du Dr. Cazeneuve, Professeur à la Faculté de Médecine de Lyon. Le Dr. Cazeneuve dit formellement que les liqueurs fabriquées par Mr. Licari ne sont pas nuisibles à la santé.

Pour ce qui a trait à la substance jaune que M. le Professeur Cazeneuve a remarquée dans le fernet et dans la liqueur de menthe, et qu'il attribue à un dérivé du goudron de houille, en déclarant toutefois que cette substance n'était nullement nuisible à la santé, moi aussi j'avais trouvé cette matière colorante, ainsi qu'il a été consigné dans mon Rapport et comme je l'ai déclaré par-devant le Tribunal, mais j'avais reconnu, en outre, qu'elle provenait du curcuma et du caramel employés par Mr. Licari à colorer ses liqueurs, et non pas de dérivés du goudron de houille.

M. Bertainchand, Directeur du Laboratoire de Chimie de la Régence, demanda alors de M. le Président du Tribunal la permission de me poser quelques questions. Il voulut savoir, d'abord, les procédés que j'avais employés dans mes analyses.

Je me prêtai de bon gré à les lui faire connaître, en lui indiquant, en détail, la marche que j'avais suivie et les réactifs employés, et je lui déclarai en même temps que toutes les opérations énoncées je les avais consignées, avec les développements qu'elles comportaient, dans mon Rapport d'analyses.

Ne semblant pas encore satisfait par ces renseignements, M. Bertainchand me demanda les quantités des liqueurs et des réactifs employés.

A cette étrange question, relativement aux détails concernant seize analyses différentes, posée à un chimiste qui n'en était pas à ses premiers essais, bien qu'il n'exerce plus actuellement cette profession, je me suis refusé de répondre, en disant à M. le Président que mon Rapport répondait complètement aux exigences de M. Bertainchand, que je croyais avoir été appelé en qualité de témoin et non pas pour subir un examen de chimie à Tunis, puisque, après des cours réguliers, le profit de mes études avait été suffisamment reconnu par MM. les Professeurs de la Faculté de Mathématiques de l'Université Royale de Bologne, qui les ont sanctionnées par le titre de Docteur es Sciences Physico-Chimiques, qui m'a été accordé le 13 Juillet, 1867.

J'aurai pu ajouter encore que, bien qu'exerçant actuellement la médecine à Tunis, j'avais été toutefois Professeur de Chimie Générale, Industrielle, et Agricole, à l'Institut Industriel et Professionnel de la Province de Terre de Bari, et que cette chaire, que j'ai obtenue au concours par examen, je l'ai occupée pendant trois années consécutives.

Voilà, M. le Rédacteur-en-chef, la vérité vraie sur les faits qu'il m'intéresserait de voir rectifiés.

(Signé) DR. N. S. CASSANFLO,
Ex-Professeur de Chimie pure et appliquée.

No. 142*.

The Earl of Lytton to the Marquis of Salisbury.—(Received April 1.)

(No. 166. Confidential.)

My Lord,

Paris, March 30, 1889.

I HAVE inquired, confidentially, at the German Embassy here, whether it is in possession of any information tending to confirm or correct the intelligence communicated to your Lordship by Mr. Consul Ricketts in his Confidential despatch No. 12 of the 25th February respecting works in process of construction at Bizerta.

The German reports correspond with that portion of Mr. Ricketts' above-mentioned despatch which refers to the erection of a floating dock (believed here to have been constructed in France and sent over to Bizerta) for the accommodation of small craft—torpedo-boats and gun-boats of slight calibre.

The German Embassy, however, has no information that a torpedo mine has been placed at the entrance of the harbour of Bizerta, and it doubts the correctness of this report; torpedoes are apt to deteriorate when sunk for any length of time. A battalion, or part of a battalion, of "infanterie légère" will, it is said, be sent to Bizerta, but there does not seem to be any question of fortifying the port. The Military Department of the German Embassy has also no knowledge of any contract with M. Lesueur for the alteration of the breakwater at Bizerta. It is thought not improbable that Transatlantic steamers may call outside Bizerta Bay, but nothing has yet been heard here about any such arrangement.

I have, &c.
(Signed) LYTTON.

No. 142.

Foreign Office to Consul Ricketts.(No. 29.)
Sir,*Foreign Office, March 30, 1889.*

I AM directed by the Marquis of Salisbury to acknowledge the receipt of your despatch No. 17 of the 19th instant, inclosing copy of a Decree of the Bey, relative to the marking out of a new boundary-line between Algiers and Tunis; and I am to instruct you to furnish his Lordship with copies of the documents referred to in Article 1 of the Decree in question, if you can obtain them.

I am, &c.
(Signed) P. CURRIE.

No. 143.

Foreign Office to Consul Ricketts.(No. 30.)
Sir,*Foreign Office, April 2, 1889.*

I AM directed by the Marquis of Salisbury to acknowledge the receipt of your despatch No. 20 of the 19th ultimo, in which you report that, in reply to an inquiry by the French Acting Resident, whether you were willing to name a person to represent the British community on the Sanitary Commission established by the Decree of the 3rd January, 1889, you expressed your opinion that the Bey's Government should give a written declaration that houses of British subjects shall not be entered without your consent.

I am to point out that you have gone somewhat beyond the instructions conveyed in his Lordship's despatch No. 22 of the 20th February on the subject of that Decree. In that despatch you were informed that Her Majesty's Government admit the right of the French Tribunals in Tunis to execute process on foreigners, and you were directed, with regard to the enforcement of sanitary Regulations, to make no protest unless a British domicile were entered without your consent by Tunisian officials acting solely under the orders of the Commission.

I am, &c.
(Signed) P. CURRIE.

No. 144.

Consul Ricketts to the Marquis of Salisbury.—(Received April 3.)(No. 22.)
My Lord,*Tunis, March 25, 1889.*

I HAVE the honour to acknowledge the receipt of a despatch from Sir J. Pauncefote, No. 15, of the 4th February last (received only on the 23rd instant), in reference to the case of Mr. Licari, reported in despatch No. 32.

The instructions contained in your Lordship's despatch have been this day communicated to the Resident.

In despatch No. 21 of the 19th instant which I addressed to your Lordship, I therein stated that Mr. Licari had been condemned by the French Tribunal, to whom the case had been submitted by the Municipality, to fine, imprisonment, and loss of goods.

Having appealed, this sentence will, I understand, not be able to be carried out for some time, say, two months. The question then arises:

The seizure being held by Her Majesty's Government irregular, is the sentence of the French Tribunal to be upheld or not?

If not, it would become a matter for your Lordship's consideration as to whether or not Mr. Licari is entitled to damages.

Should on the other hand, however, it be decided that the French Court has a right to issue judgment under the circumstances, I would suggest, as Mr. Licari and the doctor who examined his goods assert that they were perfectly harmless, that samples should be sent if possible to London and Paris for further examination; but such a matter could only be arranged through representation on the part of Her Majesty's Ambassador at Paris.

The analysis of Mr. Licari's goods was made by the chemist employed by the

Municipality, but why, may it be asked, should the French Tribunal have accepted this decision only and not have taken into consideration the opinion also given by the chemist who acted for Mr. Licari, and if any doubt existed, ought it not to have been given in favour of the accused?

I have, &c.
(Signed) G. T. RICKETTS.

No. 145.

Consul Ricketts to the Marquis of Salisbury.—(Received April 3.)

(No. 24.)

My Lord,

Tunis, March 25, 1889.

I HAVE the honour to acknowledge the receipt of your Lordship's despatches Nos. 27 and 28 in reference to Mr. Levy, in the former of which it has been arranged that Mr. Levy is to be retained in full pay for eighteen months and not for one year, as mentioned by me, and at the end of that time he is to be appointed to some other post.

This offer of the French Government has been communicated by me to Mr. Levy. Mr. Levy says he would rather have a higher indemnity or a pension, as he fears if he accepts anything else he will be subject to much trouble through the authorities, and thus compelled to leave the Service.

In M. Spuller's note of the 28th February, 1889, I observe it is said—

1. M. Spuller considers it regrettable that I did not in the first place consult the Resident instead of writing to Her Majesty's Government.

2. That twenty-nine persons have been allowed during eight years to accept French nationality, this being an especial favour.

3. That Mr. Levy and the others were removed from the Customs solely because they were unable to sign certificates of produce destined exclusively for the French Customs.

4. That Mr. Levy will receive pay for eighteen months and not twelve.

5. That there was a want of cordiality between the French residents and Her Majesty's Consul.

As regards statement made by M. Spuller contained under No. 1 above mentioned, I have to remark I did not think this matter was likely to receive any solution at Tunis, and, consequently, as time would only be wasted here in discussing it, in the interests of Mr. Levy, I represented it directly to Her Majesty's Foreign Office. It is well I did so.

As regards No. 2, I have the honour to forward an extract of a Decree of the 29th July, 1887, showing that foreigners after three years' residence in Tunis have the right of becoming French subjects. It would seem, then, there is no particular favour attached to the acceptance of French nationality; three years' residence being the condition in which this is granted; but notwithstanding this, only six Maltese have given up their nationality. Three of these are engaged in the Tunisian Government Service and the other three are employed in the Residency. Of those who are engaged in the Tunisian Government Service, I am given to understand that they renounced their nationality, fearing that if they did not become Frenchmen they would lose their posts.

Mr. Pisani, of Tabarca, who was employed there at the Custom-house, was about three years ago dismissed from the Tunisian Service for incompetency. Mr. Sandwith called personally on the Resident, and begged, as he had a large family, that he should be reinstated, but this was refused. Mr. Pisani some time after became a French subject, and is now found competent, being employed in the Municipality.

A Maltese sergeant in the police, named Xuereb, said he was asked to become a French subject, but this he refused, and has left the Service.

On the whole among the Maltese, who number several thousands in Tunis, none of those who are independent have as yet surrendered their nationality.

In reference to No. 3, I herewith inclose an exact copy of the telegram sent from the Inspector to the Receveur, Mr. Levy, from which it is evident that Mr. Levy on the 25th December, 1888, was requested to state if he intended becoming a French subject; and it was only on the 12th January, 1889 (see copy of letter herewith sent), that Mr. Levy was informed he was unable as a foreigner to sign certificates of produce destined for the French Customs.

No. 144*.

Consul Ricketts to the Marquis of Salisbury.—(Received April 3.)

(No. 23.)

My Lord,

Tunis, March 25, 1889.

I HAVE the honour to transmit herewith inclosed to your Lordship, by the Italian post, certain documents asked for in your Lordship's despatch No. 10 of the 18th January:—

1. "Dictionnaire de la Législation Tunisienne avec les Lois, Décrets, &c.," 1887; forwarded by book post.

2. A pamphlet of Organic Laws translated from the Arab "Aad-el-Aman."

3. Official "Tunis-Journal" of the 20th May, 1886, containing modification of certain Articles of the Law of the 1st July, 1885.

4. "Official Journal" of the 12th July, 1885, containing Law of Propriété Foncière.

5. Law of the 6th November, 1888.

6. Law of the 9th April, 1884.

Law of the 27th March, 1883, will be found in the book sent, p. 266.

In the "Législation de la Tunisie" will be found all Laws, Decrees, and Treaties relating to this country till the end of 1887.

I have, &c.
(Signed) G. T. RICKETTS.

P.S.—The questions in reference to the Mixed Court will be answered in a few days.

G. T. R.

Inclosure in No. 144*.

Extract from the "Journal Officiel Tunisien" of November 8, 1888.

Loi du 2 Rabia-el-Aoual, 1306 (6 Novembre, 1888).

(Louanges à Dieu.)

VU la Loi du 19 Ramadan, 1302 (1^{er} Juillet, 1885), modifiée par la Loi du 12 Chaban, 1303 (16 Mai, 1886), sur la propriété foncière.
Sur le rapport de notre Premier Ministre,

Nous avons décrété ce qui suit :

Article Unique.—Les Articles 22, 26, 36, et 295 de la Loi du 19 Ramadan, 1302 (1^{er} Juillet, 1885), modifiée par la Loi du 12 Chaban, 1303 (16 Mai, 1886), sur la propriété foncière, sont abrogés et remplacés par les dispositions suivantes:—

Article 22. L'immatriculation est facultative.

Peuvent seuls requérir l'immatriculation:—

1. Le propriétaire et le co-propriétaire;

2. L'enzeliste et le co-enzeliste;

3. Les détenteurs des droits réels énumérés dans l'Article 13 de la présente Loi, autres que la propriété et l'enzel, ceux-ci avec le consentement du propriétaire ou du co-propriétaire, ou de l'enzeliste ou du co-enzeliste pour les immeubles tenus à enzel.

Les frais de l'immatriculation sont supportés par celui qui l'a requise.

Article 26. Dans les deux mois qui suivront cette insertion, le Juge de Paix, ou son délégué, après avoir prévenu le Caïd, procédera au bornage provisoire de l'immeuble, conformément aux limites indiquées par la déclaration, en présence du

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requérant l'immatriculation ou lui dûment appelé, sans s'arrêter aux protestations qui pourraient se produire, mais qui seront toujours consignées au procès-verbal. Il pourra requérir, s'il y a lieu, l'assistance de la force publique.

La date fixée pour cette opération sera portée à la connaissance du public au moins vingt jours à l'avance et le procès-verbal de bornage constatera les diligences faites à cet effet.

La date de la clôture sera publiée sommairement au "Journal Officiel" Arabe et Français.

Article 36. Dans le cas où une opposition à une immatriculation serait formée par un justiciable des Tribunaux Français, il sera loisible à ce dernier de la porter devant la juridiction Française, pourvu qu'il le fasse avant toute défense au fond devant le Tribunal Mixte et pourvu que l'instance soit fondée sur un droit existant entre ses mains avant l'insertion au "Journal Officiel" de la déclaration d'immatriculation.

Auquel cas le Tribunal Mixte surseoir à statuer sur l'admissibilité de la demande à fin d'immatriculation, jusqu'après décision, passée en force de chose jugée, du Tribunal compétent.

Article 295. La vente forcée des immeubles ne peut être poursuivie qu'en vertu d'un titre exécutoire pour une dette certaine et liquide. Si la dette est en espèces non liquidée, la poursuite est valable; mais l'adjudication ne pourra être faite qu'après la liquidation.

Vu pour promulgation et mise à exécution,
Tunis, le 7 Novembre, 1888.

Le Ministre Plénipotentiaire Résident-Général
de la République Française,
(Signé) J. MASSICAULT.

It is somewhat strange that Mr. Levy's incapacity to sign such certificates was not discovered before the 25th December.

In No. 4 much stress is laid on my statement that only twelve months' salary would be given to Mr. Levy; but it will be noticed in my despatch No. 8 of the 21st January I stated 6,300 piastres, or about 12 months' salary. The sum is correct (see letter to Mr. Levy from Inspector, Inclosure No. 3); there was, however, an error, it is true, as regards the time; but errors of this sort are unavoidable, considering the inaccuracy of the people of these parts.

No. 5. M. Spuller states there was a want of cordiality between myself and the French residents. I must say I am somewhat astonished at such an observation; it is altogether outside the fact, for I am on the best of terms with most people, be they French or others. Nor have I personally had any differences with M. Massicault or any one concerned with the Residency. Perhaps, officially, I may not be liked, but who in such a position doing his duty would be popular? and, after all, what have reclamations of this sort to do with my relations towards the people of this country. A subject makes a complaint, and proves he has been wronged. Is the Consul to remain silent out of deference to those who would rather these were not made public?

I have, &c.
(Signed) G. T. RICKETTS.

Inclosure 1 in No. 145.

Décret du 29 Juillet, 1887.

LE Président de la République Française,
Sur le rapport du Garde des Sceaux, Ministre de la Justice,

Décète :

Article 1^{er}. Peuvent, après l'âge de 21 ans accomplis, être admis à jouir des droits de citoyen Français :—

1. L'étranger qui justifie de trois années de résidence, soit en Tunisie, soit en France, ou en Algérie, et, en dernier lieu, en Tunisie;

2. Le sujet Tunisien qui, pendant le même temps, aura servi dans les armées Françaises de terre ou de mer, ou qui aura rempli des fonctions ou emplois civils rétribués par le Trésor Français.

Art. 2. Le délai de trois ans est réduit à une seule année en faveur des individus mentionnés en l'Article précédent, qui auraient rendu à la France des services exceptionnels.

Art. 3. Pourront également être admis à jouir des droits de citoyen Français les sujets Tunisiens qui, sans avoir servi dans les armées Françaises de terre ou de mer ou rempli des fonctions ou emplois civils rétribués par le Trésor Français, auront rendu à la France des services exceptionnels.

Art. 4. La demande en naturalisation est présentée au Contrôleur Civil dans l'arrondissement duquel l'impétrant a fixé sa résidence.

Le Contrôleur Civil procède d'office à une enquête sur les antécédents et la moralité du demandeur.

Si le demandeur est sous les drapeaux, la demande est adressée au Chef de Corps, qui la transmet au Général Commandant Supérieur, chargé de diriger l'enquête et d'émettre son avis.

Dans chaque affaire, le résultat d'enquête, avec la demande et les pièces à l'appui, sont envoyés au Résident-Général, qui transmet le dossier, avec son avis motivé, au Ministre des Affaires Étrangères.

Art. 5. Il est statué par un Décret du Président de la République Française, le Conseil d'État entendu, sur la proposition collective du Ministre des Affaires Étrangères et du Garde des Sceaux, Ministre de la Justice.

Art. 6. Aucun droit de sceau ne sera perçu pour la naturalisation des individus attachés au service de la France.

Pour les autres, le droit est fixé à 50 fr.

La perception de ce droit sera faite au profit du Protectorat.

Art. 7. Le Ministre des Affaires Étrangères et le Garde des Sceaux, Ministre de la Justice, sont chargés, chacun en ce qui le concerne, de l'exécution du présent Décret.

Fait à Mont-Sous-Vaudrey, le 29 Juillet, 1887.

(Signé) JULES GRÉVY.

Inclosure 2 in No. 145.

The Director of Finance to the Receiver of Customs.

(Télégraphique.)

Tunis, le 25 Décembre, 1888, 2 h. soir.

GOVERNEMENT désire être fixé immédiatement sur le point de savoir si vous voulez vous faire naturaliser Français.
Répondez par voie télégraphique.

Inclosure 3 in No. 145.

The Director of Finance to the Receiver of Customs.

Tunis, le 12 Janvier, 1889.

M. le Directeur,

DES considérations d'ordre supérieur basées sur l'intérêt du pays imposent au Gouvernement le devoir de remplacer immédiatement par des agents Français les Receveurs de nationalité étrangère placés à la tête des Bureaux de Douane désignés pour délivrer éventuellement les certificats constatant l'origine des produits qui, aux termes du Projet de Loi soumis en ce moment aux Chambres Françaises, doivent bénéficier d'un traitement de faveur à leur entrée en France.

En présence de ces considérations, l'Administration qui n'est pas à [?] prononcer leur licenciement.

Je vous prie de faire connaître à Mr. Levy, Receveur à Mahdia, que cette mesure lui est applicable.

Bien que l'attitude de cet agent vis-à-vis de l'Administration ait récemment laissé à désirer, le Gouvernement, usant de la plus grande bienveillance, a décidé de lui allouer une indemnité de licenciement.

Cette indemnité a été fixée à l'équivalent de dix-huit mois de son traitement, soit 6,300 piastres.

En notifiant cette décision à l'intéressé, je vous prie de l'inviter à remettre le service à M. Fiterre, Deuxième Commissaire de votre Direction, nommé Receveur à Mahdia.

Le Directeur des Finances,
(Signé) DEPIENNE.

Copie pour notification remise à Mr. Levy, qui voudra bien remettre immédiatement le service à son successeur, M. Fiterre.

Le mandat de paiement de la somme de 6,300 piastres, montant de l'indemnité de licenciement qui lui est allouée, lui sera remis par M. le Sous-Inspecteur à Sousse.

Le Directeur des Douanes,
(L.S.) (Signé) LE ROI.

Tunis, le 14 Janvier, 1889.

No. 146.

Consul Ricketts to the Marquis of Salisbury.—(Received April 3, 2.10 P.M.)

(Telegraphic.)

Tunis, April 3, 1889, 9.35 A.M.

YOUR Lordship's despatch No. 15 was communicated to the Resident on the 25th March.

No. 147.

Consul Ricketts to the Marquis of Salisbury.—(Received April 3, 3.50 P.M.)

(Telegraphic.)

Tunis, April 3, 1889, 11.15 A.M.

DESPATCH No. 27 sent yesterday gives further information about case of Licari.

No. 148.

Mr. Michellad to the Marquis of Salisbury.—(Received April 6.)

Excellence,

Tunis, le 30 Mars, 1889.

AU commencement de l'année 1889, j'ai eu l'honneur de présenter à M. le Consul de Sa Majesté Britannique à Tunis une demande tendant à obtenir communication ou copie de différents documents qui avaient figuré dans un litige naguère pendant entre le Gouvernement Tunisien et moi—litige qui a été tranché par une décision arbitrale en date du 5 Mai, 1884.

M. le Consul a eu l'obligeance de transmettre ma demande à M. le Ministre Résident de France à Tunis et a bien voulu me faire part, dans les premiers jours du mois courant, de la réponse qu'il avait obtenue de M. Zouglet, attaché à la Résidence Française.

Mon devoir est, avant tout, de remercier M. le Consul de l'appui que, dans la circonstance, il a daigné me prêter jusqu'à ce jour; mais, ce devoir accompli, je me vois dans l'obligation de faire un appel à votre haute protection, car je ne puis considérer comme satisfaisante la solution que donne M. le Résident-Général à mes réclamations, ou plutôt les fins de non-recevoir à l'aide desquels celles-ci ont été repoussées.

Persuadé que vous voudrez bien me prêter votre précieux appui, je viens donc en toute confiance, Excellence, vous exposer l'objet et les motifs de ma demande; j'insisterai en même temps sur l'importance que j'attache à obtenir la communication des pièces que je sollicite—importance capitale puisque mes intérêts, ma fortune même dépendent de cette communication; enfin, je retorquerai, victorieusement je l'espère, les divers arguments au moyen desquels ma première réclamation a été éludée.

En 1884, des contestations s'étant élevées entre le Gouvernement Tunisien et moi, il fut convenu que nos prétentions réciproques seraient soumises à l'appréciation et à la décision d'un Conseil Arbitral.

Je rappelle, pour mémoire, que ce Conseil se composait des MM. de Blignières, nommé par le Gouvernement Français pour représenter le Gouvernement Tunisien, et Dingli, nommé par le Gouvernement de Sa Majesté Britannique pour défendre mes intérêts et ceux d'autres sujets Britanniques.

J'ajoute—et cela est utile à retenir—que ce Conseil Arbitral avait pris pour Secrétaire, faisant fonctions de Greffier, M. Menant, employé à la Chancellerie du Consulat Français à Tunis.

A la date du 5 Mai, 1884, ce Conseil statuait dans la cause par une Sentence sur laquelle je n'ai pas à m'expliquer ici.

Ces préliminaires posés et sans revenir en quoi que ce soit sur l'arbitrage en lui-même, je formule à nouveau la demande, qu'une première fois, comme je l'ai dit en commençant, M. le Consul a bien voulu présenter en mon nom à M. le Ministre Résident-Général de France.

Il est indispensable que j'obtienne, ainsi que je l'ai déjà exposé:—

1. Copie certifiée des chefs de réclamations et des conclusions qui ont été posées, en mon nom par mes représentants, à MM. les membres de la Commission Arbitrale.

2. Copie certifiée des chefs de réclamations ou des conclusions qui ont été présentées au nom du Gouvernement Tunisien.

3. Copie d'une décharge ou d'un récépissé de pièces que j'ai dû délivrer à M. Menant, Secrétaire de la Commission Arbitrale, au moment où, après le procès et sur l'invitation expresse de M. Menant, j'ai fait retirer des mains de celui-ci, les pièces qu'il a cru pouvoir me remettre.

Voilà ma demande, Excellence. Elle n'a pas variée. Elle est bien nette, et elle est bien simple, et je m'étonne qu'il ait pu venir à l'idée de qui que ce soit, de trouver extraordinaire ou inexplicable que je cherche à me procurer des copies de documents qui ont fait la base d'un procès dans lequel le plus clair de ma fortune s'est trouvé compromis!

Et pourtant, M. le Résident-Général Massicault, dans la réponse qu'il adressait à M. le Consul de Sa Majesté Britannique à Tunis, le 3 Mars, 1889, ne craint pas de dire:

"Qu'on ne peut comprendre quelle utilité ces documents pourraient avoir pour le Général Hamida Ben Ayed dans un procès qu'il entreprendrait contre des tiers. . ."

Je pourrais répondre simplement qu'il n'appartient pas à M. Massicault de se faire juge du plus ou moins d'utilité que pourrait avoir la production de telle ou telle pièce, dans un procès "contre des tiers."

Mais je ne veux pas cacher plus longtemps ce que M. le Ministre Résident sait très bien :

Ce n'est point pour agir "contre des tiers" que je réclame les copies que j'ai énumérées, c'est pour agir contre le Gouvernement Tunisien lui-même, c'est pour reprendre en sous-œuvre cette Sentence Arbitrale qui a été faussée dans son principe, je n'hésite pas à l'affirmer, par le fait du Gouvernement même contre lequel je plaçais.

Dans mon procès contre le Gouvernement Tunisien des pièces ont été dissimulées par le fait de mes adversaires.

Si ces pièces avaient été produites, si la religion des arbitres n'avait pas été surprise, la décision aurait été modifiée du tout au tout.

Voilà ce que j'avance ! Voilà ce que j'ai hâte d'établir ; et j'ajoute, voilà ce que M. Massicault sait très bien, car s'il en était autrement, comment expliquerait-il le refus si catégorique par lequel il répond à ma demande ?

Au surplus, est-ce que dans la lettre de refus de M. le Résident-Général (3 Mars, 1889), chaque phrase n'est pas de nature à provoquer l'étonnement ?

"J'ai l'honneur de vous faire part de la réponse du 'Service Compétent du Gouvernement Tunisien' à la demande du Général Ben Ayed. . . ."

Ainsi, j'ai plaidé en 1884 contre le Gouvernement Tunisien. Un Tribunal Arbitral a été constitué pour nous départager. Ce Tribunal avait un Greffier, M. Menant, le Tribunal n'était, si l'on peut ainsi parler, qu'une sorte de succursale ; d'annexe de la Résidence Française ; et quand je m'adresse à ce Tribunal, ou à la Résidence Française, dont il était l'émanation, pour rentrer en possession des documents que j'ai dû produire aux débats, ou pour avoir copie des procédures qui ont été échangées, la Résidence me répond : "Ce n'est pas à moi, c'est au Gouvernement Tunisien, c'est-à-dire, à votre adversaire lui-même, qu'il faut vous adresser : c'est lui qui détient le dossier de l'affaire ; c'est à lui qu'on a remis toutes les pièces, même les vôtres ! . . ."

C'est exactement comme si, ayant eu un procès devant un Tribunal, et m'adressant au Président de ce Tribunal pour être remis en possession de mon dossier, le Président me répondrait : "Tout a été remis à votre adversaire ! . . ."

Du reste, M. le Résident-Général se rend parfaitement compte de ce qu'il y a d'illogique, d'inacceptable dans sa façon de se soustraire à ma réclamation.

Après m'avoir, au début de sa lettre, renvoyé à me pourvoir devant le Gouvernement Tunisien, ne se met-il pas en contradiction avec lui-même, lorsque, quelques lignes plus loin, il déclare :—

"Que les reçus qui ont été délivrés au Secrétaire de la Commission ne saurait être en la possession du Gouvernement, mais bien de la Commission . . ."

C'est absolument mon avis ; j'ajouterai même que la déclaration de principes que fait M. le Résident-Général est incomplète ; et que ce qu'il dit des reçus qui auraient été délivrés au Secrétaire de la Commission doit s'appliquer à toutes les pièces de la procédure, sans exception.

Il est inadmissible, je le répète, que la Commission ait pu se dessaisir, non pas simplement des reçus qui lui ont été présentés, mais même de l'une quelconque des pièces de la procédure sur laquelle a été basée sa décision.

Il est inadmissible, surtout, qu'elle ait pu s'en dessaisir au profit du Gouvernement Tunisien, c'est-à-dire, au profit de l'une des parties litigantes, et au détriment de l'autre partie !

Et cependant, si je comprend bien la phrase du commencement et la phrase de la fin de la lettre de M. Massicault (3 Mars, 1889), il semblerait bien que cette chose inadmissible s'est cependant produite.

Me résumant et précisant ma demande, je dis ceci : Des conclusions ont été déposées par chacune des parties litigantes, entre les mains de la Commission Arbitrale, ces pièces ont dû nécessairement rester entre les mains de cette Commission.

Je demande à cette Commission, ou bien à la Résidence Française dont elle était l'émanation, de me délivrer copie de ces pièces.

Je n'ai pas à m'arrêter à une autre fin de non-recevoir mise en avant par M. Massicault :—

"Veuillez remarquer que si les pièces dont copie est demandée ont été signifiées à la requête du Général Ben Ayed, c'est lui et non le Gouvernement qui détient les originaux . . ."

M. le Résident-Général ne peut ignorer que devant la Commission Arbitrale, le système des notifications par ministère d'huissier—en original et copie—n'existait pas ; chaque partie remettait directement aux membres de cette Commission les pièces et documents qu'elle jugeait utiles à sa cause.

A plus forte raison en est-il ainsi lorsque je parle, non plus de conclusions—qui

dans l'espèce n'ont pas été signifiées par original et copie—mais d'un récépissé qui a été délivré par moi en un unique exemplaire, sur la demande qui m'en a été faite par le Secrétaire de la Commission Arbitrale.

Pour terminer, je ne crois pas inutile de faire toucher du doigt l'intérêt capital que j'ai à obtenir les trois copies que je réclame, et en même temps, l'intérêt capital que le Gouvernement Tunisien, mon adversaire, peut avoir à ce que ces trois copies me soient refusées.

J'ai dit que la religion des arbitres avait été surprise ; que certains titres de créance ou théskerés qui auraient dû être maintenus en ligne de compte ont été écartés du débat par le fait du Gouvernement Tunisien ; que dès lors il y a lieu, de ce chef, à redressement de compte.

Si j'obtiens copie des conclusions qui ont été prises par moi, et copie de celles qui ont été prises par mon adversaire, j'y trouverai la nomenclature, l'inventaire pour ainsi dire, de tous les documents qui ont été soumis à la discussion des parties, et à l'appréciation des arbitres, puisque la discussion n'a pu porter que sur des pièces produites.

Si, d'autre part, j'obtiens copie du récépissé que j'ai dû délivrer à M. Menant lorsqu'il m'a remis partie de mon dossier, j'en déduirai, par voie de retranchement, la nomenclature des pièces qui, déposées par moi, ne m'ont pas été remises, et sont restées, à tort, soit entre les mains de la Commission, soit peut-être entre les mains de mon adversaire, le Gouvernement Tunisien.

En d'autres termes, pour préciser davantage si j'établis que telle ou telle pièce a été présentée par moi à la Commission et que mes conclusions ou celles de mon adversaire en font mention, il faudra que cette même pièce se retrouve dans la nomenclature de celles qui m'ont été remises par M. Menant, ou sinon, j'aurai le droit de dire qu'elle a été conservée à tort par mes adversaires.

J'aurai le droit de dire : telle pièce a été produite au débat, puisqu'il en est fait mention soit dans mes conclusions, soit dans celles de l'adversaire ! Or, cette même pièce ne figurant pas dans l'inventaire de celles qui m'ont été remises, c'est donc que vous la conservez sans aucun droit.

Or, je sais déjà que ces pièces, dont j'établirai ainsi l'existence, sont des titres de créance contre le Gouvernement Tunisien. Ces titres de créance ont été écartés du débat, n'ont pas été admis par la Commission Arbitrale, parce que, je l'ai dit, la religion de cette Commission a été surprise.

Que le Gouvernement Tunisien, en retenant ces titres de créance, en refusant de me donner le moyen de prouver qu'ils existent, cherche à se soustraire à mes légitimes revendications, on le comprend à la rigueur, il est dans son rôle d'adversaire, peu scrupuleux sur la délicatesse des procédés qu'il emploie pour me combattre ; mais que la Commission Arbitrale, qui seul est légalement restée détentrice des pièces du procès, que la Résidence Générale de France à Tunis, qui seule a pu être chargée par cette Commission Arbitrale de la garde des archives, se prête à la manœuvre du Gouvernement Tunisien ; qu'elle se joigne à celui-ci pour se refuser à me donner communication ou copie des trois pièces que j'indique ; qu'en un mot, elle persiste sciemment à s'opposer à la recherche et à la découverte de la vérité, c'est ce qu'on ne comprendrait plus.

Qu'aurait-on le droit de dire d'un Juge qui, recevant de moi des pièces décisives dans un procès, les remettrait à mon adversaire, et me refuserait ensuite le moyen de prouver que ces pièces décisives sont détenues par la partie adverse ?

Comptant sur votre haute protection, Excellence, pour appuyer la présente réclamation, j'ai l'honneur d'être votre très humble et dévoué serviteur.

(Pour le Général Hamida Ben Ayed, son fondé de pouvoirs),
(Signé) MICHELLAD.

No. 149.

The Marquis of Salisbury to Consul Ricketts.

(Telegraphic.)

YOUR despatch No. 22.

Send copy of sentence of French Tribunal, condemning Mr. Licari to fine and forfeiture of goods.

Foreign Office, April 6, 1889.

Consul Ricketts to the Marquis of Salisbury.—(Received April 10.)

(No. 25.)

My Lord,

Tunis, March 30, 1889.

I HAVE the honour to transmit, herewith inclosed, an extract from the "Tunisie," in reference to the evils arising from the establishment of a Court of Appeal at Tunis.

The remarks on this subject are worthy of perusal.

The writer considers that a Chamber of Appeal should, however, be instituted at Tunis, the Court being at Aix or some other place. For my own part, I am inclined to the opinion, in view among other things, of the position in which foreigners have been placed through the surrender of their jurisdiction, that there should be neither any Chamber or Court of Appeal allowed for some time to come in this Regency, and that such a Court wherever it be should be altogether independent of this province.

I have, &c.

(Signed) G. T. RICKETTS.

Inclosure in No. 150.

Extract from the "Tunisie" of March 29, 1889.

EN dehors de la banque d'Etat, les dépêches nous apprennent que M. Massicault a insisté pour la création d'une Cour d'Appel. Et, ici, nous devons faire notre *mea culpa*. Nous avons, en effet, été des premiers à réclamer cette Cour d'Appel dont nous attendions de grands progrès au point de vue de l'expédition rapide des affaires et de la diminution des frais des procès. L'empressement avec lequel M. Massicault accueillait notre réclamation aurait dû nous faire réfléchir; aujourd'hui, le doute ne peut plus subsister et nous devons reconnaître que l'établissement d'une Cour d'Appel, telle que la veut le Gouvernement, présente certainement plus d'inconvénients que d'avantages.

La Cour d'Appel extérieure est notre dernière, notre seule garantie de l'indépendance de la justice et du respect de nos droits de citoyens Français. Et qu'on ne voie dans nos paroles ni intention agressive ni défiance personnelle: nul plus que nous ne respecte la magistrature: mais, s'il y a dans le Tribunal de Tunis des hommes de haute valeur, il faut bien avouer qu'en ces derniers temps, certaines nominations ont profondément froissé l'opinion publique: on nous a envoyé des Juges trop jeunes, sans expérience, sans tradition, sans connaissances spéciales. Qu'arriverait-il si on procédait avec la même légèreté ou la même préméditation au choix du personnel de la Cour d'Appel?

Jusqu'ici, c'est la Cour d'Alger qui nous a défendus contre les fantaisies législatives d'un Gouvernement aussi ignorant en droit qu'en administration. Le jour où la Tunisie aurait sa juridiction complète, qui nous protégerait? Qu'on ne s'y trompe pas, il y a là un grave danger que nous avons eu tort de ne pas voir assez tôt et contre lequel nous ne saurions trop prémunir la Colonie.

Le moyen existe, croyons-nous, de donner également satisfaction aux intérêts pécuniaires et aux intérêts moraux des justiciables. Au lieu d'une Cour d'Appel spéciale, il suffirait d'établir à Tunis une Chambre d'Appel dépendant, non pas de la Cour d'Alger, mais d'une Cour de France.

A tort ou à raison, la Cour d'Alger passe pour avoir une hostilité de parti pris à l'égard du Tribunal de Tunis. Une Cour Française, la Cour d'Aix, par exemple, qui a été longtemps la juridiction d'appel pour les Colonies Françaises, offrirait toutes les garanties désirables. La magistrature Tunisienne, tout entière, se trouverait alors dépendre du Premier Président d'Aix qui, lui, serait absolument indépendant du Résident-Général: tout le monde y gagnerait, et les successeurs de M. Massicault ne pourraient pas dire comme lui—en termes plus brutaux—"La magistrature et l'armée sont à ma dévotion."

Consul Ricketts to the Marquis of Salisbury.—(Received April 10.)

(No. 27.)

My Lord,

Tunis, April 2, 1889.

I HAVE the honour to transmit, herewith inclosed, to your Lordship, in extension of telegram of the 2nd April, an extract from the "Tunis-Journal" of the 23rd ultimo, in which will be found an explanation of the views of the French Tribunal in reference to the case of Mr. Licari.

It will be observed that there is no mention made of the quantity of coal tar used by Mr. Licari, and that, according to this statement, French law does not allow this ingredient to be applied in any way in the composition of liquors. How far this may be the French law guiding this subject I have no means of ascertaining.

I have, &c.

(Signed) G. T. RICKETTS.

Inclosure in No. 151.

Extract from the "Tunis-Journal" of March 23, 1889.

LES LIQUEURS FRELATÉES.—Dans notre dernier numéro, nous avons publié une lettre de M. le Dr. Cassanello, plaidant et pour lui et *pro domo* Licari. Le manque d'espace ne nous ayant point permis de relever les inexactitudes qu'elle contenait, nous le faisons aujourd'hui.

M. le Dr. Cassanello affirme, avec une grande désinvolture qui touche à la chose jugée, que M. le Professeur Cazeneuve a déclaré formellement que les liqueurs fabriquées par Mr. Licari ne sont pas nuisibles à la santé.

C'est une erreur profonde, le Professeur Cazeneuve n'ayant pas à se prononcer sur ce point, qui est du ressort du Tribunal. M. Cazeneuve a constaté—ce qu'avait oublié de faire M. Cassanello—que les liqueurs fabriquées par M. Licari contenaient, toutes sans exception, des dérivés de houille. Là était le débat, et cette affirmation de M. Cazeneuve venant corroborer les déclarations du Directeur de notre Laboratoire de Chimie, le Tribunal a pu formuler son verdict en prenant pour base les deux Rapports.

Il n'y a donc pas de contestation possible, et la preuve que les produits en question sont nuisibles à la santé, c'est que la loi Française qui régit la matière est formelle sur ce point. Elle condamne tous les dérivés de houille en se basant sur l'avis du Conseil Supérieur d'Hygiène de Paris, qui se compose des sommités scientifiques de notre pays. Or, en Juillet 1883, sur l'avis de ce même Comité, il a été rendu une Ordonnance de Police Municipale ainsi formulée:—

"Il est expressément défendu aux fabricants de liqueurs de se servir, pour colorer leurs produits, de dérivés du goudron de houille."

Entre ces déclarations formelles et l'avis dubitatif du Dr. Cazeneuve qui ne croit pas à la nocuité des dérivés de la houille, le Tribunal de Tunis a conclu comme un Tribunal de Paris l'aurait fait.

Il ne m'appartient pas de discuter plus longuement un Arrêt indiscutable; mais, cependant, nous devons dire, en terminant, que nous félicitons le Service Municipal de faire une guerre sans pitié à tous ceux qui, sous forme d'amer, d'absinthe, ou de parfait amour, versent à leurs clients des liquides empoisonnés par les dérivés du goudron de houille.

No. 152.

Mr. Cassar to the Marquis of Salisbury.—(Received April 10.)

My Lord,

[No date.]

THE undersigned Salvatore Cassar, Her Britannic Majesty's faithful subject, residing in Tunis, humbly begs to submit to your Lordship—

That four years ago I had the misfortune of losing my father, who only left me a small grocery, from the profit of which I am obliged to sustain my mother and a sister, who is yet a minor.

That my family has been established in this town for over forty years, during which none of us has ever been brought before the Court for criminality or correction.

That latterly several officers of the Municipality of Tunis presented themselves in my shop to inspect my goods, and having found some "margarina," manufactured by Vidal Engauran, of Marseilles, they took a certain quantity of it, and put the rest in a box, not paid for, which they sealed with the seal of the Municipality to prevent me for opening it.

That on the 19th instant I have been summoned to appear before the "Tribunal Correctionnel" of this city for having tried to deceive my customers by the sale of the said "margarina."

That on the 27th instant I appeared before the Tribunal assisted by my lawyer, Dr. A. M. Camilleri, who pleaded that the crime noted in the summons was, there being no witnesses, not proved at all. The President of the Tribunal, seeing that my lawyer was defending me with success, observed to him that he had not to answer the charge for deceit, but of falsifying the butter.

Dr. Camilleri remarked to the Tribunal that this latter crime was not mentioned in the summons, but as the President insisted that I should defend myself for the crime of falsification, Dr. Camilleri stated as follows:—

That in case the merchandises resulted to be falsified, this could not be attributed to me, but to the firm who had manufactured the margarine.

Indeed, this margarine is not manufactured in Tunis, but it is supplied by the above-mentioned firm in tin boxes, well closed, and I have only exposed for sale what I receive from France.

The Tribunal, to the surprise of all present, has condemned me for four days' imprisonment and a fine of 80 piastres for falsification, notwithstanding the summons issued was for deception.

Such a Judgment has been based on the Bey's Decree of the 21st May, 1888, with the Penal Code.

I take the liberty to submit to your Lordship that when the British Government suspended the Consular jurisdiction it never intended to submit us to the Mussulman law, and this clearly results from the correspondence passed between Her Majesty's Government and that of the French Republic in 1882. From the correspondence it results that the Government of the French Republic gave the assurance that criminal affairs were to be only judged according to French law.

I have also to submit to your Lordship that several persons of other nationalities have been charged with the same crime, but your Lordship will be pleased to note that none of the Frenchmen who have been called before the Tribunal for acts of the same nature have been condemned to imprisonment, nor any one of them has been condemned to have his Judgment published in the newspapers, and copies of same affixed at the door of his shop. Such measures have only been adopted against us, British subjects.

Therefore, it clearly results that justice is not equal for all, and that the local authorities are using their utmost to ruin us as strangers.

The Undersigned begs your Lordship to be pleased to instruct our Consul to open an inquiry, and after verifying the facts mentioned and the result reported to your Lordship, Her Britannic Majesty's Government may transmit to him the necessary instructions in order to cause that this state of affairs may cease without delay.

I have, &c.
(Signed) SALVATORE CASSAR.

No. 153.

Messrs. A. F. and R. W. Tweedie to the Marquis of Salisbury.—(Received April 11.)

5, Lincoln's Inn Fields, London, April 10, 1889.

My Lord,
DURING the period August 1886 and May 1887, correspondence passed between the Foreign Office and our firm in reference to the affairs of our client, General Hamida-ben-Ayad, of Tunis, who has now written us with a further Petition, but we are left somewhat in doubt by his letter whether he desires us to forward this to your Lordship on his behalf, or whether it is merely sent for our information.

We shall esteem it a favour if your Lordship will inform us whether any such Petition has been received at the Foreign Office within the last month.

We have, &c.
(Signed) A. F. AND R. W. TWEEDIE.

[To be read after No. 156, p. 127.]

No. 156*.

Consul Ricketts to the Marquis of Salisbury.—(Received April 15.)

(No. 29.)

My Lord,

Tunis, April 8, 1889.

I HAVE the honour to acknowledge the receipt of a despatch No. 10 of the 18th January, signed by Sir T. V. Lister, transmitting me copies of certain communications which have passed in reference to real property in Tunis, and, in accordance with the instructions therein contained, I have now the honour to transmit herewith inclosed a Memorandum on this subject.

In this latter document will be found a reply to the principal points spoken of in the French Memorandum of the 11th December, 1888.

The documents spoken of in your Lordship's despatch No. 10 of the 18th January, 1889, have already been sent by post.

I have, &c.
(Signed) G. T. RICKETTS.

Inclosure 1 in No. 156*.

Memorandum in reference to Real Property in Tunis.

"DISPUTES about real property in which Europeans are concerned are referred to the French Tribunals, which act according to Mussulman law."

Yet there are cases in which not the Mussulman, but French, law has been applied, viz.:—

Agha v. Société Foncière of Nouveau Kram.

De Fraicheville v. Carmelo Pisani.

Sanges v. Benigno Farrugia.

The French Tribunal has, it is true, taken upon itself to hear suits relating to landed property between Europeans, though prior to the French occupation the hearing and passing judgment on such matters would seem to have rested with the Sharâa.

The British Consular Court practically, I am told, never hold any jurisdiction in real property suits arising either among Europeans or Europeans and natives; it was only competent when the defendant accepted its jurisdiction, as in the case of Chapelié (a French subject) v. Ben Ayed (a British subject).

On a reference to Article XXIV of the Treaty of 1875 it will be noticed that Consuls held jurisdiction in suits between Europeans, but this seems to have related to personal actions only which had to be decided according to usage, it not having been the usage for the Consuls to give Judgment on matters of real property, this having been alone within the province of the Sharâa.

Article XXIV in the Treaty of 1875 says *all* civil differences shall be decided in the Consuls' Tribunals according to usage, but by Article XLII, though the Treaty of 1875 took the place of other Treaties, it did not take the place in any way of that of 1863, which referred to disputes on real property, and which alone was looked upon as embodying all that was necessary on such disputes, for it must be borne in mind that at that period Europeans had not begun to hold property, and therefore disputes were not likely to arise between them.

Further, in the Organic Laws of this country, chapter 2, it will be noticed that although Regulations were made for the establishment of new Courts for the hearing of civil and criminal suits, i.e., personal matters, nothing is mentioned about any change being made in the Sharâa; on the contrary, this Court was permitted to continue its jurisdiction in matters of real property, and in p. 7 it says the sentences of this Tribunal (the Sharâa) "will continue to have full effect."

It must also be remembered that land was purchased by foreigners in virtue of Article 11 of the Organic Law conditionally that they submitted to the local Regulations, which enjoined, among other things, that the purchase should take place in the presence of two Mussulman notaries, 1 per cent. being paid for the seal; that the sale should be entered in the register of the Sharâa; that the Amins appointed by the Sharâa should define the boundaries, and that no sale was valid without the seal of the Ecclesiastical Court.

One is therefore led to the conclusion that the Sharâa is the only Court competent to decide on matters of land in this country.

By the Treaty of 1863, suits between Tunisians and British subjects are referred to the Sharâa, the Consul merely executing the sentence of that Court.

Hitherto the construction placed upon Article IV of this Treaty has been that the Consul acts in this respect in a judicial capacity, and hence the reason of this right having been ceded to the French Tribunal in 1883, but in view of the facts following: that, in the case of Chaoush v. Mustapha-ben-Ismaïl, the French Tribunal admitted that the Consul acted in an administrative capacity; that the wording of the Treaty of 1863 does not speak of Consular Tribunal, mentioning only the word Consul; that the Consul never heard such suits or gave Judgment on them, and that this right of execution, which more properly belonged to the Sharâa, was given up solely on the ground that the Tunisian authorities were by Treaty restrained from entering the domicile of a British subject, it would seem that the power of exequatur granted in the Treaty of 1863 is after all merely of an administrative nature, and that therefore it should not have been handed over to the French Tribunal; and how can this Treaty be maintained if the execution of the sentences of the Sharâa be not left with the Consul?

Reasoning in the same way, it must also be acknowledged that the power even of the French Tribunals to execute the sentences of the Sharâa is very questionable.

"2. The difficult problems raised have been studied by a Commission without distinction of nationality."

This so-called International Commission was composed of twenty-eight Frenchmen, one English, one Italian, and six natives, the French being altogether in the majority though holding the smallest interests. This Commission was established with the view of rendering applicable to Tunis the Torrens Act.

In its last meeting in 1887 several members expressed an opinion that the application of the new Rules relating to real property should be confided to the French Tribunal, and Dr. Camilleri (Advocate), a British subject, then protested against any establishment of a mixed Court as contrary to the spirit and letter of the Treaties of 1863 and 1875. The suppression of this Court was also voted by the majority.

Mr. Cambon, the Resident at that time, wrote against the utility of the Sharâa, but in p. 28, July 1885, he also admitted that the Sharâa was the only Tribunal possessing jurisdiction in such matters in Tunis.

"3. This Law has been borrowed from the French Civil Code, the Rules relative to immovable property, and those of the 'Real Property Act, 1861' of South Australia leaving every one free to submit his property to the new Law."

This Law is far from being in accordance with French law. See remarks on this subject published in the "Dictionnaire de la Législation Tunisienne, par A. Sebaud, p. 289," a copy of which is herewith sent. A person may be free to submit his property to this new Law, but what freedom is there if say A holding property under title-deed happens to find a portion of it or all of it registered in the name of B. A must go before the French Court, and where is the necessity of registration by the Mixed Court when the property is already registered in the "daftar" of the Sharâa. It should also not be forgotten that nine-tenths of the land in this country is held under deed.

4. "The disputes arising on real property registered belong exclusively to French jurisdiction. Those belonging to property not registered continue to be submitted to Tunisian jurisdiction under Treaty of 1863."

Both parties being registered, French Tribunals will decide according to plan, but on one being registered only, the opposing party, even if holding under deed, will get no redress, for the French Court will execute the rules of the Mixed Court in this respect, the rule being that on registration being made, or no reclamation brought within two months, the order of the Mixed Court is inattackable.

If property be not registered the parties can go, according to Treaty, before the Sharâa. But, unfortunately, this is not always the case. An Arab demands registration of a plot of ground belonging to a Maltese, held under deed. The latter is compelled to go either before the Mixed Court or the French Tribunal, though by Treaty his case should be solely within the jurisdiction of the Sharâa. And here it may be asked, why should any one holding land under good title-deeds signed by the Bey, the Judges of the Sharâa, and entered in their registers, be liable to be summoned before any other Court to obtain his rights? Is he not thus exposed to unnecessary trouble and expense, and does not such a rule open the road to innumerable abuses?

In short, the advantages acquired by Treaty are so to say destroyed through the existence of this institution.

5. "Attributions, purely administrative, and in no way judicial, of the Mixed Court, resemble those conferred on the Registrar-General in Australia."

This is not so. In the case of T. Pilter, who went to register his land, a portion of it having been claimed by the Princess Aziza; T. Pilter holding title-deed 200 years old, and the Princess none. The Mixed Tribunal stated that Pilter could not register the portion claimed by Aziza. Consequently, Aziza was practically admitted as the owner of the lands claimed by Pilter under deed. If, also, there be no appeal against the Act of Registration (see Article 2, Decree of the 17th July, 1888) can this be called administrative?

6. "If there be any opposition to registration by English, they can submit them to the French Tribunals."

Yes, under certain conditions, Article 36, Decree of the 6th November, 1888, allows this, but it is clogged with the condition that the claimant has not commenced to plead his case in the Mixed Court, or that he has entered a Petition denying its competency. And what happens if the claim be not put in within two months? He loses his property.

The going before the French Tribunal for settlement of such suits is also a great misfortune, the French Judges not understanding the rules and customs pervading the Mussulman law. For instance, the French Court has, I am told, admitted that the Mussulman law allows prescription of ten and fifteen years in personal actions, notwithstanding it is an ascertained fact that no time whatever is allowed in such matters by Mussulman law.

It is only in suits relating to land that prescription is allowed ten years by the Maleki and twenty years by the Hanefi Laws.

The inability of seeking redress in this Tribunal may also be ascertained from the following:—

On the 6th July, 1886, a Judgment was issued by the Juge de Paix of Goletta for 600 fr. against Kuider Bakush, that sum being due to a Maltese subject named Saliba, who had advanced the money on mortgage to the said Kuider Bakush. The property belonging to this latter was seized and sold by a Judgment of the French Court, the 22nd March, 1888, to Saliba, but up to the present time the said Saliba has not been able to obtain possession of this property, of which he holds the deeds.

7. "The Decree of the 17th July, 1888, instead of withdrawing from the competency of the French Tribunals, adds to it Articles 1-2."

Article 1, it is true, says that the disputes arising out of registration of real property belong to the French jurisdiction; but Article 2 destroys altogether the effect of Article 1, a Decree of the Mixed Court being inattackable. The disposition of this Law, which grants a delay of only two months in which to put in a claim, would also appear to be contrary to the French Civil Code and the laws of Tunis, the French law allowing thirty years and the Tunisian law fixing no limit to any one claiming under a title-deed. A person for some reason or other omits to claim his land within the space of two months. If the plot claimed has been registered he has no remedy. Is this justice?

The legality of this Decree of the 17th July promulgated by the President of the French Republic may also be called in question, inasmuch as it has not received the sanction of the Chambers and the Senate; and has, it may be asked, the President of the French Senate the right to modify a Law made by the Bey of this country?

There is also another matter worthy of consideration in dealing with this question, which relates to the execution of the Decrees of the Bey in matters of land by the French Tribunal.

According to the arrangement entered into in 1882-83 it was, I believe, understood that in civil and commercial suits judgment should be given in accordance with French law, but this could only have related to personal suits, "the system in force relating to real property not having been subjected to any modification." But as matters stand at present, should a dispute arising as to the limits out of the act of registration be referred to the French Tribunal, this would uphold the Regulations of the Mixed Court, hence we should have the French Tribunal carrying out the laws of the Bey, which seem to be contrary to the Treaty of 1863 and the Organic Laws.

From what has been herein advanced it would appear—

1. That the Sharâa is the only Court competent to take cognizance of suits in reference to real property either between Europeans or Europeans and natives.

2. That the French Tribunals are not justified in taking cognizance of suits relating to real property arising between Europeans.

3. Although the execution of the sentences of the Sharâa has been made the rule of the French Tribunals in suits about real property between Tunisian and British subjects, this, in accordance with the terms of the Treaty of 1863, would appear to belong more properly to the Consular Representative.

4. The Treaty of 1863 being based on the existence of the Court of the Sharâa, it follows, if the Mixed Court continue in its present form, that the functions of the Sharâa will be gradually set aside and the Treaty aforesaid rendered useless.

5. That the Mixed Tribunal should not have been instituted without the consent of the other Powers.

(Signed) G. T. RICKETTS.

Tunis, April 2, 1889.

Inclosure 2 in No. 156*.

Extract from the "Dictionnaire de la Législation Tunisienne," by A. Sebaut; 1888; p. 289.

LE Tribunal Mixte est une de ces innovations qui comme nous l'avons dit, n'est pas heureuse; c'est une singularité que rien n'explique ni ne justifie. Au point de vue judiciaire, c'est encore plus, c'est la négation de tout esprit de justice, c'est la suppression, sans nécessité, des divers degrés de juridiction, une des plus grandes garanties pour les plaideurs.

Aucune voie de recours n'est ouverte contre ses Jugements; il tranche souverainement toutes les questions qui lui sont soumises; on peut dire de ses décisions: "c'est la parole de Dieu;" il ne reste plus, en effet, qu'à s'incliner.

Créer un Tribunal qui échappe à toute classification judiciaire, qui par sa nature même et par le fait seul de sa création, devient une sorte de Cour Suprême dont les Arrêts sont inattaquables, c'est là une énormité qui ne saurait trouver place dans une législation sérieuse et bien entendue.

La composition du Tribunal Mixte indique, d'ailleurs, toute son inutilité. Ses justiciables sont: ou des Tunisiens, ou des Tunisiens et des Européens, ou des Européens. Dans le premier cas, c'est-à-dire, lorsque toutes les parties en cause sont des Tunisiens, l'admission ou le rejet de l'immatriculation ne pourrait-il pas être prononcé par les Tribunaux Tunisiens? Dans le second cas, c'est-à-dire, lorsqu'il y a des Tunisiens et des Européens en cause, ne suffirait-il pas d'adjoindre un ou plusieurs assesseurs Musulmans d'une des Chambres du Tribunal Civil Français? Et dans le troisième cas, c'est-à-dire, entre Européens, ce dernier Tribunal ne pourrait-il pas être seul compétent?

On pourrait opposer à cette organisation ou système les Traités Nationaux (Article IV du Traité Anglo-Tunisien du 10 Octobre, 1863; Article XXII du Traité Italo-Tunisien du 8 Septembre, 1868, dont les dispositions ont été adoptées par les autres Puissances Européennes ayant des Traités avec la Régence).

Nous ne savons si toutes ces questions ont été soulevées et suffisamment discutées au sein de la Sous-Commission chargée d'élaborer la Loi Foncière, le Rapport présenté en son nom étant complètement muet à ce sujet; mais nous ne saurions trop insister sur la nécessité qui s'impose de soustraire le Tribunal Mixte à des critiques malheureusement trop fondées, soit par une organisation et des attributions qui en fassent un Tribunal dans le sens vrai du mot, soit par sa suppression.

Inclosure 3 in No. 156*.

Extract from the "Dictionnaire de la Législation Tunisienne," by A. Sabaut; 1888; p. 290.

LES dispositions de cet Article et des suivants sont le palliatif que le Législateur a cru, sans doute, devoir apporter au pouvoir exorbitant donné au Tribunal Mixte, mais nous avouons sincèrement que nous ne voyons pas clairement dans quelles conditions la demande à fin d'indemnité prévue par ces Articles peut s'exercer.

L'immatriculation ayant pour but d'asseoir et de préciser d'une façon définitive (Article XIX) les droits du requérant à l'immatriculation, on se demande comment la reconnaissance de ces droits, évidemment fondée sur des titres et soumise, en outre, à une grande publicité, pourrait occasionner un dommage quelconque à un tiers.

Où l'immatriculation a lieu sans contestation, ou des oppositions se produisent qui sont admises ou rejetées par le Tribunal. Dans le premier cas, pas de dommage, puisque personne ne conteste; dans les deux autres cas, pas de dommage également, puisque, d'une part, on reconnaît le bien-fondé des oppositions et il leur est fait droit, ou, d'autre part, elles sont déclarées mal fondées et par conséquent rejetées.

A-t-on voulu parler des incapables et des absents; mais, alors, contre qui cette demande peut-elle être formée, et qu'a-t-on voulu dire par "auteurs directs du dommage?" Ce ne peut être ni contre le vendeur, ni contre l'acquéreur, puisque ni l'un ni l'autre ne sont chargés de veiller aux intérêts des dits incapables ou absents.

No. 154.

Consul Ricketts to the Marquis of Salisbury.—(Received April 12.)

(No. 28.)

My Lord,

Tunis, April 8, 1889.

I HAVE the honour to inform your Lordship that the observations spoken of in your Lordship's despatch No. 10 of the 18th January last will be forwarded this week.

I have, &c.

(Signed) G. T. RICKETTS.

No. 155.

Foreign Office to Consul Ricketts.

(No. 33.)

Sir,

Foreign Office, April 12, 1889.

I AM directed by the Marquis of Salisbury to transmit to you the accompanying copy of a letter from Mr. Salvatore Cassar, a British subject resident in Tunis, complaining of the treatment to which he has been subjected by the Tunisian authorities; and I am to instruct you to furnish his Lordship with a report upon the case.

I am, &c.

(Signed) P. CURRIE.

No. 156.

Foreign Office to Mr. Cassar.

Sir,

Foreign Office, April 12, 1889.

I AM directed by the Marquis of Salisbury to acknowledge the receipt of your letter, undated, complaining of the treatment to which you have been subjected by the Tunisian authorities; and I am to state to you that Her Majesty's Consul at Tunis, to whom a copy of your letter has been sent, has been instructed to furnish his Lordship with a Report upon the case.

I am, &c.

(Signed) P. CURRIE.

No. 157.

Consul Ricketts to the Marquis of Salisbury.—(Received April 15, 12.25 P.M.)

(Telegraphic.)

Tunis, April 15, 1889, 9.5 A.M.

DOMICILE of another British subject entered by Municipal authorities without my consent. I have protested. Statement will be sent by Italian mail Wednesday.

No. 158.

The Marquis of Salisbury to the Earl of Lytton.

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(No. 178.)

My Lord,

Foreign Office, April 16, 1889.

WITH reference to my despatch No. 111 of the 11th ultimo, I transmit to your Excellency the accompanying copy of a further despatch from Her Majesty's Consul at Tunis,† in which he reports that having communicated to Mr. Levy the proposal of the French Government in regard to himself, that gentleman now states that he would prefer to be allowed to retire from the Service altogether either with a larger indemnity or with a pension, as he anticipates difficulties in the future with the French authorities, should he accept a new appointment.

I should be glad to know whether the alternative proposed by Mr. Levy is, in your Excellency's opinion, likely to be acceptable to the French Government.

* No. 152.

† No. 144.

It is not one which Her Majesty's Government could press, after having stated, as they have done, that the proposal made by the French Government offered ground for a satisfactory settlement of the case. It would not, therefore, be desirable to mention it unless it may be expected to meet with a favourable reception.

It does not appear to me to be necessary to continue discussion on the other points raised in Mr. Rickett's despatch.

I am, &c.
(Signed) SALISBURY.

No. 159.

Consul Ricketts to the Marquis of Salisbury.—(Received April 18.)

(No. 30.)

My Lord,

Tunis, April 11, 1889.

I HAVE the honour to transmit herewith inclosed a copy of the sentence issued against Giuseppe Licari and Emmanuele Licari, his brother, who is in reality only an employé of Giuseppe, the business being carried on solely by Giuseppe Licari. They are both condemned for cheating in the quality of the merchandize sold, and also for falsification of liquors.

Giuseppe Licari is to be imprisoned for fifteen days with a fine of 500 piastres. Emmanuele Licari is to be imprisoned for eight days with a fine also of 500 piastres. All the seized goods are to be destroyed, and a copy of the sentence to be nailed on the door of their house, the same to be inserted in the newspapers of this place at their expense.

As regards the cheating of which these people are accused in selling a beverage in which there is no gum for syrup of gum, Mr. Licari says that what was made consisted only of sugar and water, that the sale of this has been customary in Tunis for years past, that it was injurious to the health of no one, and that this is even now allowed to be sold by the police under another name.

Further, he maintains that in the liquor called "Raspberry Syrup," there is raspberry, which was imported from France, and as regards the rum and other liquors, he asserts there is no "houille de goudron" whatever or aniline in them, which could easily be proved if the other bottles seized were subject to a proper analysis.

If this be the case it is exceedingly hard that such errors should be visited with fine and imprisonment.

The other brothers of Giuseppe Licari have also been condemned. I have not, as yet, obtained a copy of the sentence against them, but will do so as soon as possible. They are employed in another shop by Giuseppe Licari.

The appeal on this case will, I hear, commence on the 15th May next, in Algiers.

I have, &c.
(Signed) T. G. RICKETTS.

Inclosure in No. 159.

Judgment against Giuseppe Licari and Emmanuele Licari.

Extrait des Minutes du Greffe du Tribunal Civil de Première Instance de Tunis.

L'AN 1889 et le 6 Mars, à l'audience Correctionnelle tenue publiquement dans la salle du Palais de Justice à Tunis, où étaient présents : MM. Geoffroy, Chevalier de la Légion d'Honneur, Président ; Magnier, Juge ; Watrin, Juge Suppléant. En présence de M. Fropo, Substitut du Procureur de la République, occupant le siège du Ministère Public, avec l'assistance de M. Chainet, Paul, Commis-Greffier, et de M. Goguyer, Interprète Judiciaire pour la langue Arabe, a été rendu le Jugement dont la teneur suit :

Entre le Ministère Public demandeur par acte de Partel, huissier, à Tunis, en date du 13 Février, 1889, d'une part ; et les nommés : premièrement, Licari Giuseppe, sujet Anglo-Maltais, né en 1859 à Malte, fils de Carmelo et de Giocchina Defelice, célibataire, liquoriste, Rue d'Espagne, à Tunis ; deuxièmement, Licari, Emmanuele, sujet Anglo-

Maltais, né en 1869 à Malte, même filiation que le précédent, employé, Rue d'Espagne, à Tunis, 17 Octobre, 1888, Tunis. Bris de scellés ; 200 fr. d'amende.

Comparants prévenus de tromperie sur la qualité de la marchandise vendue ; fabrication, mise en vente de boissons falsifiées, d'autre part.

A l'appel de la cause M. le Procureur de la République a exposé qu'il avait fait citer les prévenus à comparaître par-devant le Tribunal à la présente audience pour se défendre en raison de la prévention ci-dessus indiquée ; puis le Greffier a donné lecture des procès-verbaux à l'audition, hors la présence les uns des autres, des témoins produits ; avant de déposer, chaque témoin a fait serment de dire toute la vérité et rien que la vérité et a dit n'être ni parent ni allié d'aucun des prévenus, ne pas les avoir à son service et n'être pas au leur ; les prévenus ont été interrogés ; le Greffier a tenu note des déclarations des témoins et des réponses des prévenus, le Ministère Public a résumé l'affaire et a requis l'application de la loi. Les prévenus, assistés de Me Bodoy, avocat défenseur, ont présenté leurs moyens de défense. Puis le Tribunal, après en avoir délibéré conformément à la loi, a statué en ces termes :

Attendu que d'un Rapport dressé par Alexandre, Préparateur au Laboratoire de Chimie Agricole et Industrielle de Tunis, il résulte : premièrement, que plusieurs litres d'une liqueur portant cette étiquette : "Sirop de Gomme," et saisis dans les magasins de Giuseppe et Emmanuele Licari, ont été trouvés ne contenir aucune addition de gomme ; deuxièmement, que plusieurs litres d'une liqueur portant cette étiquette : "Sirop de Groseille," et saisis dans les magasins de Giuseppe et Emmanuele Licari, ont été trouvés, après analyse chimique, ne contenir aucune addition de groseille ; troisièmement, que diverses quantités d'une liqueur qualifiée "menthe," d'une liqueur qualifiée "Rhum Licari," d'une liqueur qualifiée "Fernet Licari," ont été trouvées colorées avec un dérivé du goudron de houille, substance nuisible à la santé ;

Attendu que le Rapport de l'expert Alexandre a été confirmé par une seconde expertise dressée par Bertainchamp, Directeur du Laboratoire de Chimie Agricole et Bertholon, Docteur en Médecine de la Faculté de Paris ;

Attendu, il est vrai, que les prévenus ont contesté les résultats de cette double expertise et qu'ils produisent pour justifier cette contestation un Rapport du Dr. Casanello qui, en effet, contredit les conclusions des précédents experts. Mais attendu que ce Rapport, dressé dans des conditions qui lui enlèvent toute garantie de certitude et d'autorité ne saurait être admis sans réserve par le Tribunal ;

Attendu, d'ailleurs, qu'une quatrième vérification due également à l'initiative des prévenus et consacré par un Rapport du Dr. Cazeneuve, Professeur de Chimie à la Faculté de Médecine de Lyon, a pleinement confirmé le résultat des analyses auxquelles avaient procédé MM. Alexandre Bertainchamp et Bertholon. Attendu qu'il reste donc acquis au Tribunal que les sirops de gomme et de groseille provenant de l'officine des Frères Licari ne contenaient en réalité ni gomme ni groseille ; que les liqueurs de menthe, que le Rhum, que le Fernet Licari, fabriqués par eux avaient été colorés avec un dérivé de la houille ;

Attendu que pour écarter les deux premiers chefs de prévention les prévenus articulent que les sirops de gomme livrés à la consommation par d'autres fabricants que les pharmaciens ne contiennent jamais de gomme dans les usages ordinaires de la manipulation ; qu'ils ne sont en réalité qu'un sirop de sucre, absolument propres d'ailleurs à l'usage auquel les consommateurs le destinent. Mais attendu que les bouteilles de liquide saisis chez les Frères Licari portaient cette étiquette : "Sirop de Gomme," que c'est sous cette dénomination qu'ils étaient ou vendus ou mis en vente, que dans les formules du codex le sirop de gomme doit contenir au moins 10 pour cent de gomme, que ce produit n'est pas seulement débité chez les pharmaciens ; qu'il convient dès lors que ceux qui s'adressent à d'autres fabricants ne soient pas trompés par des indications inexactes sur la nature du produit qu'ils achètent ;

Attendu en ce qui concerne le sirop de groseille que les prévenus prétendent qu'ils l'ont fabriqué avec des essences ou extraits de groseilles achetés par eux en France ; que ces affirmations ne sont en rien justifiées par eux, qu'elles sont contredites par des expertises dont il a été parlé. Attendu que les prévenus ne contestent pas qu'ils ont vendu ces produits et trompé ainsi sur la nature de la chose vendue ; qu'au surplus le Décret du 11 Rhamdan, 1305 (2 Mai, 1888), punit le fait de tentative de tromperie ; Attendu et quant aux derniers chefs de prévention, qu'après avoir contesté l'addition dans leurs liqueurs d'un colorant dérivé du goudron de houille, les prévenus ont en dernière analyse soutenu que ce mode de coloration ne pouvait être nuisible à la santé. Mais attendu que la Circulaire jointe au Décret du 11 Rhamdan, 1305, indique

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limitativement les produits colorants dont les fabricants pourront faire usage, que les dérivés du goudron de houille ne sont pas compris dans cette nomenclature absolument limitative; que bien plus, elle exclut absolument les colorants minéraux pour n'admettre que ceux qui sont empruntés aux végétaux. Attendu, d'ailleurs, que les appréciations du Dr. Bertholon, que le Tribunal s'approprie comme certaines et exactes; considèrent les dérivés de houille comme pouvant avoir sur la santé un effet nuisible. Attendu que les controverses qui se sont produites aux débats n'ont pas fait échec à cette opinion.

Que les auteurs les plus favorables aux prévenus, et notamment le Dr. Cazeneuve, sont obligés de reconnaître: premièrement, que certains dérivés de la houille peuvent avoir des effets nuisibles ou même toxiques; deuxièmement, que tous peuvent avoir les mêmes effets lorsqu'ils ne sont pas chimiquement purs. Que c'est donc à bon droit que divers Comités d'Hygiène ont exclu des manipulations alimentaires des produits qui, s'ils ne sont absolument toxiques, peuvent cependant être une cause de trouble et de phénomènes morbides lorsqu'ils sont mêlés à des liquides dont certaines personnes font un usage journalier, tel que le Fernet Licari, et auxquels, d'ailleurs, le débitant attribue des vertus reconstituantes qui les font rechercher particulièrement des personnes malades ou affaiblies.

Attendu que ces faits constituent les délits prévus et punis par les Articles 423 du Code Pénal, 1 et 2 de la Loi du 27 Mars, 1851, 1 et 2 du Décret Beylical du 21 Mai, 1888. Mais attendu qu'il existe dans la cause des circonstances atténuantes en faveur des prévenus, et qu'il y a lieu de les faire bénéficier des dispositions de l'Article 453 du Code Pénal;

Attendu qu'il y a lieu également de leur faire application de l'Article 365 du Code d'Instruction Criminelle, lequel ordonne qu'en cas de convictions de plusieurs crimes ou délits la peine la plus forte est seule appliquée;

Vu les dits Articles ensemble, les Articles 52 et 55 du même Code, et 194 du Code d'Instruction Criminelle, et 2 et 9 de la Loi du 22 Juillet, 1867, dont le Président a donné lecture à l'audience et qui sont ainsi conçus:

Article 423, Code Pénal. Quiconque aura trompé l'acheteur sur le titre des matières d'or ou d'argent, sur la qualité d'une pierre fausse vendue pour fine, sur la nature de toute marchandise . . . sera puni d'un emprisonnement de trois mois au moins, et d'un an au plus, et d'une amende qui ne pourra excéder le quart des restitutions et dommages-intérêts ni être au-dessous de 50 fr.

Le Tribunal pourra ordonner l'affichage du Jugement dans les lieux qu'il désignera et son insertion dans les journaux, le tout aux frais du condamné. Loi du 27 Mars, 1851, Article 1^{er}. Seront punis des peines portées par l'Article 423 du Code Pénal, paragraphe 1: ceux qui falsifieront des substances ou denrées alimentaires ou médicamenteuses destinées à être vendues; deuxièmement, ceux qui vendront ou mettront en vente des substances qu'ils sauront être falsifiées ou corrompues; troisièmement, ceux qui auront trompé ou tenté de tromper sur la qualité de la chose vendue.

Article 2. S'il s'agit de marchandises contenant des mixtions nuisibles à la santé l'amende sera de 50 fr. à 500 fr., l'emprisonnement de trois mois à deux ans.—Décret Beylical du 21 Mai, 1888.

Article 1^{er}. Quiconque aura falsifié ou altéré des substances ou denrées alimentaires ou médicamenteuses destinées à être vendues, aura sciemment vendu ou mis en vente des denrées falsifiées ou corrompues, ou aura trompé ou tenté de tromper sur la qualité des choses livrées sera puni d'un emprisonnement pendant trois mois au moins, un an au plus, et d'une amende qui ne pourra excéder le quart des restitutions et dommages-intérêts ni être au-dessous de 80 piastres. En outre, les objets du délit seront confisqués.

Article 365 du Code d'Instruction Criminelle, paragraphe 2. En cas de conviction de plusieurs crimes ou délits, la peine la plus forte sera seule prononcée.

Article 463. Dans tous les cas où la peine de l'emprisonnement et celle de l'amende sont prononcées par le Code Pénal, si les circonstances paraissent atténuantes, les Tribunaux Correctionnels sont autorisés, même en cas de récidive, à réduire l'emprisonnement même au-dessous de six jours, et l'amende même au-dessous de 16 fr. Ils pourront aussi prononcer séparément l'une ou l'autre de ces peines, et même substituer l'amende à l'emprisonnement, sans qu'en aucun cas elle puisse être au-dessous des peines de simple police.

Article 55. Tous les individus condamnés pour un même crime ou pour un même délit seront tenus solidairement des amendes, des restitutions, des dommages-intérêts, et des frais.

Article 52. L'exécution des condamnations à l'amende, aux restitutions, aux dom-

mages-intérêts, et aux frais, pourra être poursuivie par la voie de la contrainte par corps.

Article 194 du Code d'Instruction Criminelle. Tout Jugement de Condamnation rendu contre le prévenu et contre les personnes civilement responsables du délit, ou contre la partie civile, les condamnera aux frais, même envers la partie publique. Les frais seront liquidés par le même Jugement.

Article 2 de la Loi du 22 Juillet, 1867. La contrainte par corps est maintenue en matière criminelle, correctionnelle, et de simple police.

Article 9. La durée de la contrainte par corps est réglée ainsi qu'il suit: de deux jours à vingt jours lorsque l'amende et les autres condamnations n'excèdent pas 10 fr.; de vingt jours à quarante jours lorsqu'elles sont supérieures à 50 fr. et qu'elles n'excèdent pas 100 fr.; de quarante jours à soixante jours lorsqu'elles sont supérieures à 100 fr. et qu'elles n'excèdent pas 200 fr.; de deux mois à quatre mois lorsqu'elles sont supérieures à 200 fr. et qu'elles n'excèdent pas 500 fr.; de quatre mois à huit mois lorsqu'elles sont supérieures à 500 fr. et qu'elles n'excèdent pas 2,000 fr.; d'un an à deux ans lorsqu'elles s'élèvent à plus de 2,000 fr.

Par ces motifs le Tribunal déclare les nommés Licari, Giuseppe, et Licari, Emmanuele, coupables du délit ci-dessus spécifié; admet en leur faveur le bénéfice des circonstances atténuantes, et leur faisant application des dispositions des Articles précités, les condamne: Licari, Giuseppe, à quinze jours de prison et 500 piastres d'amende; Sicari, Emmanuele, à huit jours de prison et 500 piastres d'amende: Ordonne la destruction des marchandises saisies, ordonne l'affichage du présent Jugement à la porte de la maison de commerce des prévenus, et son insertion dans le "Journal Officiel" Tunisien et le Journal Italien "l'Unione;" le tout aux frais des prévenus et solidairement par corps envers l'État, aux frais du procès liquidés à 12 fr. 20 c., sauf le coût de l'expertise, des affichages, et insertions. Fixé au minimum la durée de la contrainte par corps. Ainsi jugé et prononcé en audience publique le jour, mois, et an que dessus.

Et ont le Président et Juges signé avec le Commis-Greffier.

I hereby certify the preceding to be a true copy of the original.

(Signed) G. CARBONARO,
British Pro-Consul.

Tunis, April 11, 1889.

No. 160.

The Marquis of Dufferin to the Marquis of Salisbury.—(Received April 18.)

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(No. 91. Confidential.)
My Lord,

Rome, April 15, 1889.

I HAVE the honour to forward, for your Lordship's information, a Confidential Report, drawn up by the Italian Intelligence Department, and translated by Colonel Slade, on the port of Bizerta.

I need not call your Lordship's attention to the grave importance of the subject.

I have, &c.
(Signed) DUFFERIN AND AVA.

Inclosure 1 in No. 160.

Lieutenant-Colonel Slade to the Marquis of Dufferin.

(Confidential.)
My Lord,

Rome, April 15, 1889.

I HAVE the honour to forward, for your information, a translation of a Confidential Report on Bizerta, which has recently been drawn up at the Intelligence Department of the Italian War Office.

I have, &c.
(Signed) JOHN RAMSAY SLADE, Lieutenant-Colonel,
Military Attaché.

Inclosure 2 in No. 160.

Report on the Port of Bizerta.

(Confidential.)
(Translation.)

ALGIERS, with its line of coast of 1,100 kilom., has not a single good harbour, and those that do exist are exposed both to the north and north-west winds.

The coast is of a steep, rocky formation, and in many places very precipitous. Oran, Mers-el-Kebir, Algiers, Phillipville, Bougia, and Bona are the only French ports of importance, of which Mers-el-Kebir, Bougia, and Bona are the best.

Mers-el-Kebir is 400 kilom. distant from Gibraltar, and is merely an open bay protected by a fort called Santon, and an old fort and battery bearing its own name; large vessels can anchor in the bay, as there is sufficient depth of water, and the ground is of a holding nature.

Bougia is a large bay, with an opening of upwards of 45 kilom. in extent; it is much exposed to the northerly winds, but has a fair anchorage with an average depth of water of 36 feet.

Bona is the only harbour with a secure anchorage, being fairly sheltered from both northerly and westerly winds by Mount de la Garde; the anchorage is behind Fort Genoese.

On the coast of Tunis we find the most important harbour, both from a topographical and geographical point of view, to be that of Bizerta.

Bizerta is an old Phœnician town, built on a canal which connects the Mediterranean with an inner lake capable of giving secure and safe anchorage to all the European fleets in the Mediterranean.

Its population is estimated at upwards of 8,000 inhabitants, but it is of no commercial importance.

The canal was formerly only 3 feet in depth, but since the occupation of the French this depth has been considerably increased, and in some places it has reached 11 feet.

The high land on each side of the entrance to the canal offers good positions for batteries, and commands the whole of the gulf and approaches; in the event of formidable works being built on these commanding positions, it would be difficult for an enemy's fleet to approach sufficiently near to Bizerta to inflict any damage on a fleet anchored in the inner bay.

It is obvious, after studying the Map, that any military or naval establishments that may be built hereafter will be erected on the west side of the lake, where they will be completely sheltered.

Notwithstanding that the Gulf of Bizerta is much exposed to the north-east wind, with a sandy and bad anchorage, it is evident that with but little difficulty, and with an expense small in proportion to the enormous advantages gained, Bizerta could be made a first-class naval station, with its dockyards and arsenals completely protected from attack.

There are two feasible plans for entering the lake:—

1. To cut a fresh canal east of the present one across the isthmus, which would be about 3 kilom. in length.
2. To deepen the present one, which passes through the town, and make it available for the passage of large ships.

Up to the present the French Government have only endeavoured to deepen the canal sufficiently for the passage of torpedo-boats, at the same time stating that it was in the interests of commerce that the works were being undertaken.

The works carried out during the past three years consist of—

- (a.) Deepening the left passage of the canal.
- (b.) Deepening the entrance to the canal.
- (c.) Opening a passage through the principal bridge.
- (d.) Building a small military establishment proportionate to the works being carried on.

Owing to the small amount of money that has been granted for the above works, ill-considered plans, and the absence of any serious attention being given by the Government on account of political disturbances in France, it is doubtful whether any improvement has resulted in the three years' work.

The dredger has been working too close to the shore, with the result that houses have been undermined and have fallen into the canal.

The canal debouches into the sea between Forts Kasbab and Medina, but with a

view of further protecting the entrance a small work has been thrown up on the north side in prolongation of Fort Kasbab.

To enable torpedo-boats to pass through the canal to the inner lake it has been found necessary to cut an opening through the main bridge, replacing it with a movable flying bridge, which is difficult to manage.

The naval establishment at present at Bizerta only consists of—

- One torpedo-boat,
- One small steamer,
- One dredger,
- One floating dock for the repair of torpedo-boats.

Close to the Tunis gate there is an old circular fort used as a barrack for gendarmerie, marked (A) in the plan. Towards the lake there is a small store-house for torpedoes built, and it is in contemplation to build a powder magazine also.

On the west side of the canal is an old Spanish fort, in which a battery of mountain guns has been mounted, whilst a garrison of 120 gunners and 20 sailors occupy it. This is marked (B) on the plan. If it is in contemplation to cut a fresh canal it will be necessary to extend the breakwater some 800 yards in a north-easterly direction, with a view of protecting the entrance to the canal from the effects of north-easterly winds.

Regarding future works, it appears that the Government has granted a sum of 32,000*l.* to M. Senator Lesueur, a contractor at Phillipville, to carry out certain hydraulic works at Bizerta of which the exact nature is unknown. The French press states this sum is intended for the extension of the breakwater before commencing the new canal, but this interpretation appears to be doubtful, as the amount would not be sufficient.

The grant to M. Lesueur has been made quite privately, hence the affair is shrouded in mystery.

The population is made up of 300 Italians, 100 Maltese, whilst 15 claim the protection of Spain, 60 of Holland, and 10 of Austria, the remainder being of native origin, sprinkled here and there with a few French traders.

The French authorities consist of a Vice-Consul, a civilian Controller and Secretary, 4 clerks employed in the police office, 3 schoolmasters, 3 French nuns, and several subordinate employés.

The French garrison in Tunis amount to 8,000 troops.

Since the occupation the administrative services have been reorganized, fresh roads constructed, whilst a railway has been opened from Tunis to Constantine, and one is in contemplation from Bizerta to Tunis.

The climate is good, and the land fertile and productive.

It is estimated that a steamer of engine power capable of steaming 10 knots per hour can reach—

Cagliari (Sardinia) in ..	..	..	..	..	..	12 hours.
Marsala (Sicily) ..	..	..	..	..	..	13 "
Naples ..	..	..	..	..	..	27 "
Civita Vecchia ..	..	..	..	..	..	30 "
Genoa ..	..	..	..	..	..	44 "
Toulon ..	..	..	..	..	..	38 "
Malta ..	..	..	..	..	..	20 "
Gibraltar ..	..	..	..	..	..	70 "
Port Saïd ..	..	..	..	..	..	112 "

If a large naval station is established at Bizerta, it will both command and threaten the main sea route east and west of the Mediterranean.

No harbour would be better situated for sheltering a fleet and commanding the commercial route, as from the heights surrounding Bizerta one can see the vessels passing to and fro.

Again, if this position is occupied by a great naval Power like France, the conditions of a naval war in the Mediterranean would be radically changed to their advantage.

At present France has only one naval port—Toulon, which is too far north to seriously threaten the main sea route, whilst her other ports are of no strategical importance.

Under the present conditions Italy would be able to compete against France with her ports of Spezzia, Maddalena, and Messina, but in the event of France establishing a large naval station at Bizerta, the conditions would be changed; whilst it would always be a menace to Sicily, Sardinia, and the south of the Peninsula of a most serious nature.

One may here remark that Toulon represents for France a port of defence, whilst Bizerta would be one of offence, even if only limited to a torpedo station.

In conclusion, I would add that France to save appearances does not find herself at present in a position to form the large naval station which has been suggested by Admiral Aube and General Mirabelle. But it is more than probable that she will proceed by patchwork to build works of modern pretension for a small torpedo station, which will be increased as opportunity offers.

An English contractor has estimated that it would take 800,000*l.* to carry out the project in view, of which sum 120,000*l.* has been already spent, in addition to the sum of 32,000*l.* lately granted.

It will be necessary for us to watch carefully any works that may be building of a military nature.

Inclosure 3 in No. 160.

Sketch Map.

No. 161.

Consul Ricketts to the Marquis of Salisbury.—(Received April 23.)

(No. 31.)

My Lord,

Tunis, April 15, 1889.

I HAVE the honour to transmit herewith inclosed to your Lordship copy of a note addressed by me this day to the Resident, protesting against the conduct of the Tunisian authorities in entering the domicile of a British subject on or about the 11th instant, the entry having taken place without the previous consent of this Consulate having been obtained.

Herewith inclosed will be found copy of an affidavit made by Antonio Ellul in reference to this matter.

A copy of an affidavit therein made by his brother, together with copies of the affidavits made by the persons who were present at the time.

The entry of the premises of A. Ellul was, it will be observed, carried out by the police under the orders of delegates from the Municipality for the enforcement of sanitary measures, no judicial process having as yet been instituted against the brothers Ellul.

The Tunisian authorities might perhaps assert they have a right to ask to purchase samples of goods from the merchants, but they have not a right to make a forced purchase, nor, according to Article XXIII of the Treaty of 1875, "can a British subject be compelled to sell to a Tunisian anything against his will." All these difficulties might, I need hardly observe, be easily avoided if the authorities would, in the first instance, signify their wishes to this Consulate prior to the entry of the domicile of a British subject. Their not doing so would, therefore, seem to denote a determination on their part to continue to molest our subjects in defiance of the Treaties which they have engaged to respect.

Should your Lordship deem this a matter in which the interference of Her Majesty's Government is called for, I trust that some steps will be taken to prevent the recurrence of similar acts on the part of the authorities of this country.

Inclosed herewith I append a translation of an article on this subject taken from the Italian paper "l'Unione." Also copy of the Petition sent to the Resident.

I have, &c.

(Signed)

G. T. RICKETTS.

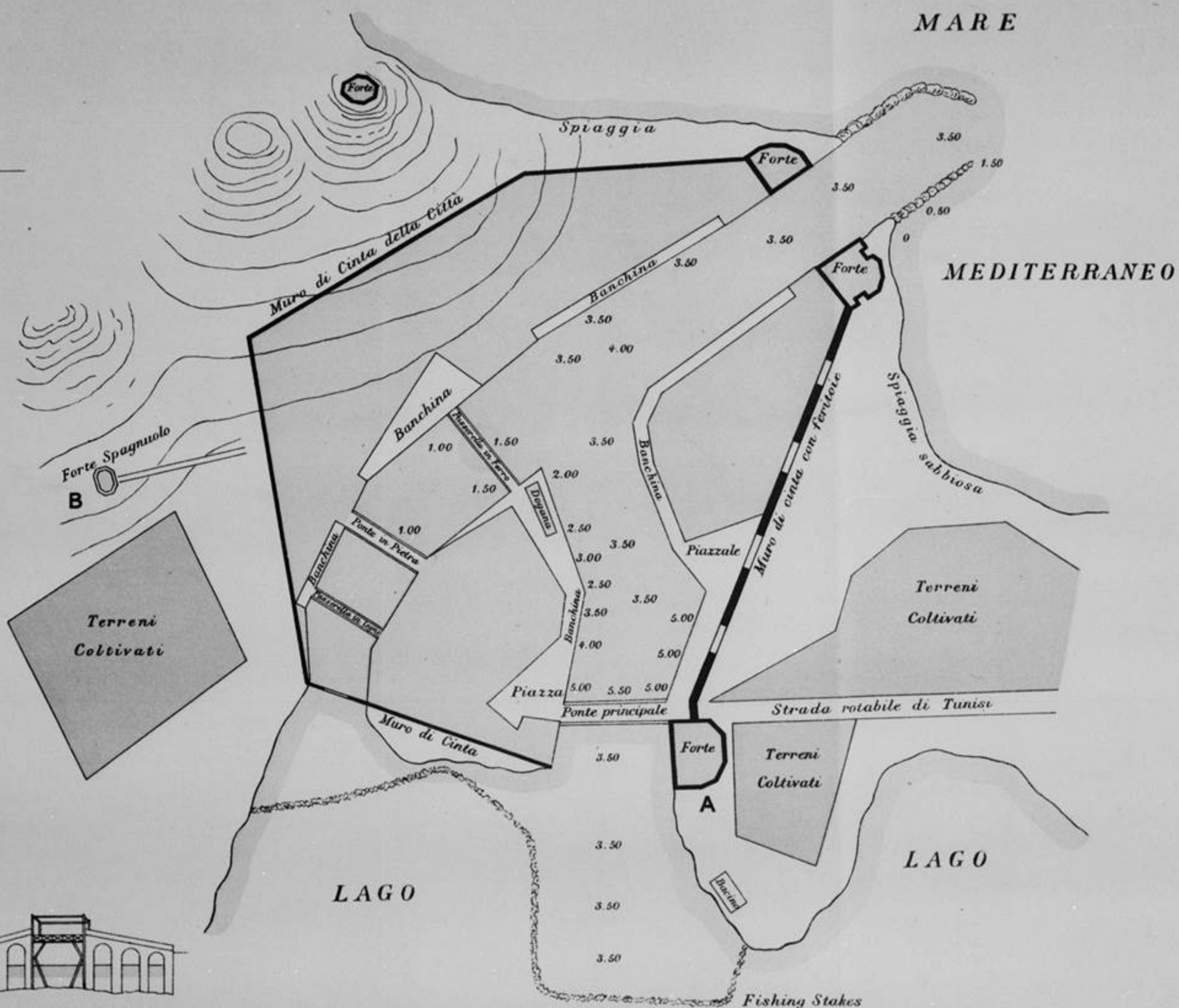
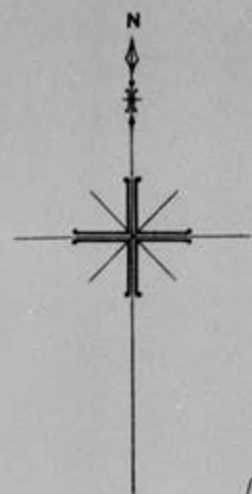
Inclosure 1 in No. 161.

Consul Ricketts to M. Massicault.

M. le Chargé d'Affaires,

Tunis, April 15, 1889.

I HAVE the honour to transmit to you herewith inclosed a Petition presented to me by a British subject named Antonio Ellul, residing at Tunis, against the conduct of the Tunisian authorities in entering his premises on or about the 11th instant. The petitioner affirms that the shop belonging to him and his brother was entered by



Sezione del Ponte Principale.

the Municipal authorities for the purpose of obtaining samples of the butter sold by him for analysis; that he refused to give the samples asked for without some one being present on the part of this Consulate; that an offer was made to purchase the goods, but was likewise refused; that on this the Commissary of the Police was called in and the samples cut off, and taken away, contrary to his express desire, the money for the same, though no sale was made, having been thrown on the counter.

The above statement has been confirmed by the evidence of witnesses who were there at the time.

Hence it would appear that the premises of A. Ellul, a British subject, have been entered by Tunisian officials under the orders of the Municipality, without the previous knowledge and sanction of the Consulate, and that samples of the goods belonging to him have been taken away contrary to his wish, though it is stipulated in the XXIIIrd Article of the Treaty of 1875 that "no British subject shall be compelled to sell anything to a Tunisian against his free will.

As these acts involve an infringement of the rights assured to us by the Capitulations, usages, and Treaty, causing much molestation to our subjects residing in this country, I feel it my duty to endorse the protest which has been embodied in the Petition subscribed by A. Ellul aforesaid.

Trusting you will be pleased to call this matter to the attention of the Government of His Highness the Bey, I have, &c.

(Signed) G. T. RICKETTS.

Inclosure 2 in No. 161.

Affidavit by Antonio Ellul.

(Translation.)

I, the undersigned Antonio Ellul, a merchant and a British subject, make oath and say:—

Yesterday, at about 6.30 p.m., M. Sbrana, Municipal Veterinary Surgeon, accompanied by two Municipal Tunisian policemen, came into my shop, Rue de la Kasbah, No. 15. M. Sbrana asked me to give him one rotolo of butter. My brother John, who was present, refused. M. Sbrana then offered him its value. My brother answered that he would not give him nor sell him any without the presence of an official from the British Consulate. M. Sbrana sent one of the police to call a Commissary of Police, left the other policeman in guard, and went away towards the Place de la Bourse. A few minutes after, M. Sbrana returned, and asked whether the Commissaire had arrived. At that moment the Commissaire of Police, M. Ornano, passed by, and was approached by M. Sbrana. After a short interview, the Commissaire came into my shop and asked me why I refused to give a sample. My brother answered that he refused to do so, and that he would only submit to force, and called the attention of witnesses. The Commissaire said: "We are in our own country, the shop is open, and have the right to take;" and told M. Sbrana to take some. Then M. Sbrana took by his own hands one rotolo, and asked me its cost, and for a receipt of the sum he was to pay. My brother answered that as he had not sold anything to them, they owed him nothing. The butter in question is the produce of Tunis, bought the day before from the public market. Afterwards they took another small quantity of butter, which they put under seal, and left it on the counter, together with 2 fr., and went away.

(Signed) A. ELLUL.

Tunis, April 12, 1889.

Sworn at Tunis, this 12th day of April, 1889.

Before me,

(Signed) G. CARBONARO,
British Pro-Consul.

Inclosure 3 in No. 161.

Affidavit by G. B. Ellul.

(Translation.)

I, the undersigned John Ellul, a merchant and a British subject in this city, make oath and say:—

Yesterday evening, at about 6.30 p.m., being in the shop of my brother Anthony, Rue de la Kasbah, No. 15, presented himself there M. Sbrana, Municipal Veterinary

Surgeon, with two policemen, and asked for a rotolo of butter to be analysed. My brother had bought this butter from the public market the day before, and, therefore, already subjected to medical inspection. I answered, instead of my brother, that I would give nothing without the presence of an officer from my Consulate. After this refusal, M. Sbrana called M. Ornano, Commissaire of Police. The latter invited me to obey the orders of M. Sbrana, observing that all the shop-keepers were obliged to deliver samples to be analysed by the Laboratory of Chemistry. I refused, saying that I would not allow the agent of the Municipality to take samples from my shop, and that I would only submit to force.

The Commissaire then said to M. Sbrana: "We are in our own country, the shop is open, and, therefore, have the right to take."

In consequence of this, M. Sbrana, against my will, cut a piece of butter, gave it to one of his policemen, and put under seal another piece, which he threw on the counter, together with 2 fr. I said that not having sold anything to them, they had not the right to throw money on the counter, and I attested this by several persons present.

The Municipal agent took no notice of this, and went away.

(Signed) G. B. ELLUL.

Tunis, April 12, 1889.

Sworn at Tunis, this 12th day of April, 1889.

Before me,
(Signed) G. CARBONARO,
British Pro-Consul.

Inclosure 4 in No. 161.

Affidavit by Giuseppe Gagliardo.

(Translation.)

I, the undersigned Giuseppe Gagliardo, a painter and an Italian subject, make oath and say:

On the 11th instant, at about 6 P.M., Giovanni Battista Ellul called me in the shop, Rue de la Kasbah, No. 15, to witness what took place there. In the said shop I found M. Sbrana, Municipal Veterinary Surgeon, the Commissaire of Police, and two Municipal policemen. Mr. Ellul told them that he would neither sell nor give them butter. They then took it by their own hands and left on the counter a small quantity of the butter wrapped up in paper with a mark on it and 2 fr. They then went away.

(Signed) GIUSEPPE GAGLIARDO.

Tunis, April 13, 1889.

Sworn at Tunis, this 13th day of April, 1889.

Before me,
(Signed) G. CARBONARO,
British Pro-Consul.

Inclosure 5 in No. 161.

Affidavit by Amabile Borg.

(Translation.)

I, the undersigned Amabile Borg, a merchant and British subject, make oath and say:—

On Thursday the 11th instant, at about 6.15 P.M., seeing a crowd opposite the shop of Antonio Ellul, Rue de la Kasbah, at No. 15, I approached and then entered the shop. I saw there a Municipal policeman, M. Sbrana, the Commissaire of Police, M. Ornano, Antonio Missud, and his brother, John Ellul. John Ellul was saying to Sbrana and Ornano: "I shall not weigh you anything, nor shall I sell you anything." The Commissaire said, "but why?" In the meantime Sbrana weighed the butter by himself, then he took a piece which he sealed. John Ellul added: "I do not accept anything sealed and I shall throw it out of the shop." Sbrana asked the price of the butter, and John Ellul answered: "I have already told you I won't sell you anything;

what you have taken you took by force." Sbrana on going out of the shop left 2 fr. and the sealed butter.

(Signed) AMABILE BORG.

Tunis, April 13, 1889.

Sworn at Tunis, this 13th day of April, 1889.

Before me,
(Signed) G. CARBONARO,
British Pro-Consul.

Inclosure 6 in No. 161.

Extract from the Italian Journal "l'Unione" of April 14, 1889.

(Translation.)

DOMICILIARY VISITS.—In one of the last numbers we treated on the measures prescribed by the Municipality regarding the verification of articles of food belonging to European merchants. We then spoke longly on the question of opportunity, leaving aside, because we hardly pointed it out, that of the legality of the dispositions applied. We shall to-day insist on this second point, on which however we have written on other occasions, as it comes to sustain the thesis maintained in past times in other cases.

In fact Article 11 of the Protocol signed between Italy and France at the time when the former of these Powers suspended its Consular jurisdiction, says:—

"Except this derogation to the present régime (that regarding the suspension of the Consular jurisdiction) it is expressly agreed that all other immunities, privileges, and guarantees assured by the Capitulations, usages, and Treaties remain in vigour."

From this Article, then, it clearly appears that, except in the cases contemplated by the penal procedure emanating from the French Tribunals, to which the jurisdiction on the European subjects in this Regency was temporarily confided, it is not in the faculty of any authority whatever to exercise on the foreigners themselves that guardianship which was always reserved to their respective Consuls. On this subject we point out Article XV of the Italo-Tunisian Treaty of the 8th September, 1868 (the execution of which was successively guaranteed also by the Treaty of the Bardo, Article IV), which at paragraph 3 is expressed as follows:—

"The officers of the Tunisian Government can, after a written request from the Minister of Foreign Affairs of His Highness the Bey, or from the President of the Municipal Council addressed to the Consul-General, or, in his absence, to the functionary acting in his place, visit the establishments and make the necessary research in order to verify infractions to the laws, either to the General, Municipal, Sanitary, Political, Financial, or other Regulations."

This being established as regards the first Article quoted by us, that of the Protocol, we put the following question:—

Were the Municipal agents executing an order regularly received from the judicial authorities, the only one authority which, in virtue of the Protocol, can, without giving notice to the Consular authority, execute search in the domicile of the Europeans depending from it?

As regards the Article quoted by us of the Italo-Tunisian Treaty, we bring forward this other question: have, in the visits of domiciles which have taken place and continue to take place in these days, the spirit and letter of the diplomatic agreement been respected?

To both these questions we reply negatively and without fear of being contradicted.

The Municipal agents did not execute the perquisitions with a regular order from the judicial authorities, limiting themselves to be accompanied by a Commissary of Police, he also not being furnished with an order from the Procureur, and even deprived of the authority inherent in the order invested in him in France by such Magistrates, because in the Regency, this not being French territory, according to the Circular of 1886 of the Garde des Sceaux of France, the policeman is a person dependent on the Municipality which engages him, and does not assume the qualification of "judicial" except in certain special cases, which have nothing to do with ours.

The Municipal agents did not execute the perquisitions legally, because the President of the Municipal Council did not obtain, neither by a written request as prescribed by the Treaty, nor by other formalities, the authorization from the Consular

authorities to enter the domicile of Italian and Anglo-Maltese subjects visited in these latter days.

Therefore, we are witnessing violation of rights which ought not to be tolerated any longer, and we were right when we pointed out the diplomatic notes of protest against these illegal proceedings.

We believe that this anormal situation of things will be prolonged indefinitely, producing continual conflicts of attribution till a radical remedy be devised. Leaving aside the idea of a political change of the situation, which would not be accepted by the European Powers, it remains only to examine summarily what are the causes which produce the conflicts, and what remedies are to be opposed to them.

Evidently the idea of ownership, which really does not exist in this Regency, supported by the force furnished by French administration of justice, permits the authorities to exceed their rights in the application of administrative measures, which are generally in contradiction to the privileges of Europeans, such privileges being submitted to the jurisdiction of the French Tribunals, who are, therefore, Judges and parties in the same case.

This is not regular, and will prolong that precarious state of things which daily tends to reach a state of acuteness prejudicial to all. According to our opinion one single remedy presents itself—the creation of Mixed Tribunals like those existing in Egypt, which judge, without costly appeals, the questions which may arise.

This idea, which begins to show itself, will permit to every interested Power to delegate its own Judges, thus cutting short from the beginning every cause of dissent. It is not the first time that, in these columns, we cite the analogy existing between the condition of the British Protectorate in Egypt and that of the French in Tunis; and we do not understand how, what is claimed and obtained by France and the European Powers in the first of the above countries, should be refused by the same nation in the latter. The reason of utility is not always valid, especially when the utility of one is in contradiction to that of all!

Inclosure 7 in No. 161.

Mr. Ellul to Consul Ricketts.

(Translation.)

Sir,

Tunis, April 12, 1889.

THE Undersigned, Her Britannic Majesty's faithful subject, a merchant, residing at this place, respectfully sheweth:

That he is the owner of a grocer's shop in this city, Rue de la Kasbah, No. 15.

That yesterday, at about 6-30 P.M., M. Sbrana, Municipal Veterinary Surgeon, accompanied by two Municipal policemen, entered his shop and ordered him to give him a certain quantity of butter to be analysed by the Municipal chemist.

That his brother, John Ellul, being present, observed to M. Sbrana that the shop being the property of a British subject, could not submit to orders given by Municipal officials without their being authorized to do so by the British Consulate.

That M. Sbrana, being of opinion that the petitioner had no right to such claims, called for the assistance of M. Ornano, Commissary of Police, in whose company he again entered the shop, ordering the butter asked for either to be given or sold to him. The petitioner answered that until the Municipal authorities presented themselves accompanied by a Consular officer, he would neither give nor sell to them anything.

That the Commissaire observed that being in their own home (meaning French territory) they had the right to take; and, in fact, abusing of his position as a Commissaire of Police, cut a piece of butter and took it away, throwing on the counter 2 fr.

That this treatment by the officers of the Municipality is contrary to the Anglo-Tunisian Treaties of 1863 and 1875.

Therefore, the Undersigned begs you will transmit copy of this Petition to Her Britannic Majesty's Government, and a copy to the Government of His Highness the Bey of Tunis, to serve as a protest against the conduct of the Municipal authorities, which from this moment the petitioner considers as a violation of domicile and abuse of power.

The petitioner avails himself of the present opportunity to assure him of his sentiments of fidelity towards the Government of Her Most Gracious and Loved Sovereign.

(Signed) A. ELLUL.

No. 162.

Consul Ricketts to the Marquis of Salisbury.—(Received April 25.)

(No. 32.)

My Lord,

Tunis, April 18, 1889.

IN reference to my despatch No. 25 of the 30th ultimo, I have the honour to transmit, herewith inclosed, an extract from "l'Afrique Française," in which will be found further observations as regards the non-advisability of the establishment of a Court of Appeal.

I have, &c.
(Signed) G. T. RICKETTS.

Inclosure in No. 162.

Extract from "l'Afrique Française" of April 14, 1889.

LA MAGISTRATURE TUNISIENNE.—CRÉATION INOPORTUNE.—On réclame depuis longtemps l'installation à Tunis d'une Cour d'Appel, ou, tout au moins, d'une Chambre d'Appel.

Les uns se sont faits les champions de cette mesure, qu'ils ne cessent de réclamer à cor et à cris; les autres, plus clairvoyants—et nous sommes de ceux-là—y sont complètement opposés.

Il est très facile d'en démontrer les inconvénients, qui sont on ne peut plus sérieux, et dont on doit tenir compte à plusieurs titres.

En examinant la composition de notre Tribunal de Première Instance, il est impossible de ne pas reconnaître la dépendance complète dans laquelle se trouvent placés ses membres par rapport à la Résidence.

D'un autre côté, il est fâcheux de voir un Tribunal de l'importance du nôtre, composé en majeure partie, sinon en totalité, de Juges à peine sortie de l'adolescence, et qui, partout ailleurs, seraient encore aux premiers échelons de la hiérarchie judiciaire.

Une récente et scandaleuse nomination, celle du chef du Cabinet de M. Massicault, vient de tous points confirmer ce que nous disons.

L'inexpérience de ces jeunes gens les expose le plus souvent à rendre des sentences et à prononcer des Jugements en complète contradiction sinon avec nos codes, du moins avec les nombreuses interprétations formulées par nos Magistrats les plus expérimentés.

Ils donnent, par suite, lieu, de la part du public, à des critiques justement fondées.

Or, ces nominations n'ont lieu que sur l'agrément de notre Ministre Résident-Général, M. Massicault.

C'est donc entre ses mains que se trouvent, pour ainsi dire, placés les membres de notre Tribunal.

On conviendra, avec nous, que ceux qui sont ainsi à l'entière discrétion de la Résidence, et qui sont appelés à rendre la justice, se trouvent exposés à ne pas rendre des sentences marquées au coin de l'impartialité et de l'équité parfaites qu'elles doivent avoir.

Il est acquis que l'indépendance d'un Magistrat est d'autant plus grande qu'il n'a à s'inspirer que de sa conscience, sans autre considération étrangère à la cause qu'il est appelé à juger.

C'est peut-être demander beaucoup ici.

Qu'en pensent messieurs les Juges?

Un membre haut placé de notre Tribunal Civil, devant lequel quelqu'un constatait que: avant l'homme il y avait le Magistrat, n'a pu s'empêcher, par un signe non équivoque d'acquiescement, de reconnaître l'exactitude de ce fait.

Il en sera malheureusement de la Cour d'Appel ce qu'il en est du Tribunal. Messieurs les Conseillers se trouveront également soumis à l'agrément du maître, nous voulons dire de notre Résident-Général, qui les aura ainsi entièrement à sa dévotion.

Il n'y aurait certainement plus de justice pour les Tunisiens.

La création d'une Cour d'Appel à Tunis, pour être utile et rendre des services efficaces, devrait se composer de Magistrats placés dans les mêmes conditions que ceux

de la métropole, c'est-à-dire, faire partie de ce qu'on est convenu d'appeler la "Magistrature Assise;" en d'autres termes, être inamovibles.

Et encore!

Comme c'est beaucoup trop demander, nous nous bornerons à nous déclarer entièrement opposés à la création à Tunis d'une Cour d'Appel, voire même d'une simple Chambre d'Appel.

Nous estimons qu'il est de l'intérêt bien entendu des Tunisiens, que cette mesure ne soit pas prise en considération par la Garde des Sceaux, Ministre de la Justice, et nous n'hésitons pas à déclarer hautement que nous travaillerons pour rester dans le *statu quo*.

No. 163.

Consul Ricketts to the Marquis of Salisbury.—(Received April 25.)

(No. 33.)

My Lord,

Tunis, April 18, 1889.

I HAVE the honour to transmit herewith inclosed, to your Lordship, copy of a Petition addressed to the Italian Consul-General by the Italian inhabitants of this place, and signed by 1,800 persons, complaining of the method in which justice is administered in the French Courts at Tunis.

I have, &c.

(Signed) G. T. RICKETTS.

Inclosure in No. 163.

Petition.

(Translation.)

To his Excellency the Minister for Foreign Affairs.

Excellency.

THE incessant abuses committed by the French Tribunals to the injury of whoever is an Italian in Tunis, force the Undersigned to address themselves to your Excellency that a severe regular inquest may prove the reality of continued injustice, and, consequently, revert to their own jurisdiction.

Your Excellency will not ignore in criminal matter the many illegal arrests, the many illegal interpretations of the law in their appliances which are deplored in Tunis. The following are examples: the cases Disegni-Pinna, the illegal arrest of Rogier, Mennia, Grammatico, &c., the Judgments Lamberto, Gamba, Romano, &c.

The criminal is always an Italian, the police always arrest Italians, and the Italians alone are considered capable of committing crimes. In civil cases who is not Italian is always right: the Judgment Guarino and other Judgments pronounced in hatred to thousands of Italian labourers, who after having worked for whole months with French undertakers, or with a certain Commandant Gerodias, are obliged to have recourse to the Tribunals for payment, and afterwards having lost the case against all right which is here treaded upon, are obliged to have recourse to the Consular authority, and beg for a free passage to return to their country on account of their destitution caused by French injustice.

At present, moreover, that the relations between Italians and French have become worse, they wish to inform their Government that where there is written "Liberté! Égalité! Fraternité!" for the Italians is written "Liberté point! Égalité point! Fraternité point!"

Your Excellency, who thus worthily govern our loved country, improving its condition in the name of our beloved Sovereign, and rendering Rome to its former position, will courteously take notice of the humble Petition of the humble subjects of the King of Italy, and order the inquiry in order to verify the working of the administration of justice in Tunis, which we are certain will lead to the triumph and honour of Italy, which is misregarded in Tunis. The Italians, therefore, wait for their country to take up the Tribunal, and be judged by their own laws.

No. 164.

Consul Ricketts to the Marquis of Salisbury.—(Received April 30.)

(No. 34.)

My Lord,

Tunis, April 22, 1889.

I HAVE now the honour to forward herewith inclosed copies of the sentences of the French Tribunal of this place, issued against Francesco Licari and Baldassare Licari, as spoken of in my despatch No. 30 of the 11th instant on this subject.

I have, &c.

(Signed) G. T. RICKETTS.

Inclosure 1 in No. 164.

Extrait des Minutes du Greffier du Tribunal Civil de Première Instance de Tunis.

L'AN 1889, et le 6 Mars, à l'audience Correctionnelle tenue publiquement dans la Salle du Palais de Justice à Tunis, où étaient présents: MM. Geffroy, Chevalier de la Légion d'Honneur, Président; Magnier, Juge; Watrin, Juge Suppléant;

En présence de M. Frolo, Substitut du Procureur de la République, occupant le siège du Ministère Public; avec l'assistance de M. Chainet, Paul, Commis-Greffier et de M. Gognyer, Interprète Judiciaire pour la langue Arabe, a été rendu le Jugement dont la teneur suit:—

Entre le Ministère Public, demandeur par acte de Patel, Huissier, à Tunis, en date du 12 Février, 1889, d'une part; et les nommés: (1) Licari, François, sujet Anglo-Maltaise, né en 1867 à Alexandrie (Égypte), fils de Saliba et de Jacquina de Felici, marié, débitant Rue Al Djazira, No. 38, à Tunis; (2) Licari, Giuseppe, sujet Anglo-Maltaise, né en 1859 à Malte, même filiation, débitant à Tunis; comparants prévenus de tromperie sur la qualité de la chose vendue, fabrication, mise en vente de boissons falsifiées, d'autre part.

A l'appel de la cause, M. le Procureur de la République a exposé qu'il avait fait citer les prévenus à comparaître par-devant le Tribunal à la présente audience pour se défendre en raison de la prévention ci-dessus indiquée; puis le Greffier a donné lecture des procès-verbaux et des pièces du procès; ensuite il a été procédé à l'audition, hors la présence les uns des autres, des témoins produits; avant de déposer, chaque témoin a fait serment de dire toute la vérité et rien que la vérité et a dit n'être ni parent ni allié d'aucun des prévenus, ne pas les avoir à son service et n'être pas au leur; les prévenus ont été interrogés, le Greffier a tenu note des déclarations des témoins et des réponses des prévenus; le Ministère Public a résumé l'affaire et a requis l'application de la loi. Les prévenus, assistés de M^e Bodoy, Avocat défenseur, ont présenté leurs moyens de défense. Puis le Tribunal, après en avoir délibéré conformément à la loi, a statué en ces termes:

Attendu qu'il résulte des débats la preuve que les prévenus se sont rendus coupables d'avoir à Tunis, depuis moins de trois ans, notamment en Janvier 1889, ensemble et de concert: (1) sciemment vendu ou mis en vente une liqueur dite "Vernet," qui était falsifiée et nuisible à la santé; (2) trompé les acheteurs sur la nature de la marchandise vendue, en vendant comme sirop de gomme qui ne contenait pas de gomme; (3) Licari, Giuseppe, d'avoir à Tunis, depuis moins de trois ans, fabriqué la liqueur dite "Fernet," falsifiée et nuisible à la santé, spécifiée ci-dessus;

Attendu que ces faits constituent les délits prévus et punis par les Articles 423 du Code Pénal; 1, 2, Loi du 27 Mars, 1851; 1, 2, Décret Beylical du 21 Mai, 1888. Mais attendu qu'il existe dans la cause des circonstances atténuantes en faveur des prévenus et qu'il y a lieu de les faire bénéficier des dispositions de l'Article 463 du Code Pénal;

Attendu qu'il y a lieu également de leur faire application de l'Article 365 du Code d'Instruction Criminelle, lequel ordonne qu'en cas de conviction de plusieurs crimes ou délits la peine la plus forte est seule appliquée;

Vu les dits Articles ensemble les Articles 52 et 55 du même Code et 194 du Code d'Instruction Criminelle et 2 et 9 de la Loi du 22 Juillet, 1867, dont le Président a donné lecture à l'audience et qui sont ainsi conçus:

"Article 423, Code Pénal. Quiconque aura trompé l'acheteur sur le titre des
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matières d'or ou d'argent, sur la qualité d'une pierre fausse vendue pour fine, sur la nature de toute marchandise, sera puni d'un emprisonnement de trois mois au moins et d'un an au plus et d'une amende qui ne pourra excéder le quart des restitutions et dommages-intérêts ni être au-dessous de 50 fr.

"Le Tribunal pourra ordonner l'affichage du Jugement dans les lieux qu'il désignera et son insertion dans les journaux, le tout au frais du condamné."

"Loi du 27 Mars, 1851, Article 1^{er}. Seront punis des peines portées par l'Article 83 du Code Pénal, § 1^{er}, ceux qui falsifieront des substances ou denrées alimentaires ou médicamenteuses destinées à être vendues; (2) ceux qui vendront ou mettront en vente des substances qu'ils sauront être falsifiées ou corrompues; (3) ceux qui auront trompé ou tenté de tromper sur la qualité des choses vendues. Article 2. S'il s'agit de marchandises contenant des mixtions nuisibles à la santé, l'amende sera de 50 fr. à 500 fr., l'emprisonnement de trois mois à deux ans."

"Décret Beylical du 20 Mai 1888, Article 1. Quiconque aura falsifié ou altéré des substances ou denrées alimentaires ou médicamenteuses destinées à être vendues, aura sciemment vendu ou mis en vente des denrées falsifiées ou corrompues, ou aura trompé ou tenté de tromper sur la qualité des choses livrées, sera puni d'un emprisonnement pendant trois mois au moins, un an au plus, et d'une amende qui ne pourra excéder le quart des restitutions ou dommages-intérêts ni être au-dessous de 80 piastres."

Les objets du délit seront confisqués.

"Article 365 du Code d'Instruction Criminelle, § 2. En conviction de plusieurs crimes ou délits, la peine la plus forte sera seule prononcée."

"Article 463. Dans tous les cas où la peine de l'emprisonnement et celle d'amende sont prononcées par le Code Pénal si les circonstances paraissent atténuantes, les Tribunaux Correctionnels sont autorisés, même en cas de récidive, à réduire l'emprisonnement même au-dessous de six jours, et l'amende même au-dessous de 16 fr. Ils pourront aussi prononcer séparément l'une ou l'autre de ces peines et même substituer l'amende à l'emprisonnement, sans qu'en aucun cas elle puisse être au-dessous des peines de simple police."

"Article 55. Tous les individus condamnés pour un même crime ou pour un même délit seront tenus solidairement des amendes, des restitutions, des dommages-intérêts et des frais."

"Article 52. L'exécution des condamnations à l'amende, aux restitutions, aux dommages-intérêts et aux frais, pourra être poursuivie par la voie de la contrainte par corps."

"Article 194 du Code d'Instruction Criminelle. Tout Jugement de Condamnation rendu contre le prévenu et contre les personnes civilement responsables du délit, ou contre la partie civile, les condamnera aux frais, même envers la partie publique. Les frais seront liquidés par le même Jugement."

"Article 2 de la Loi du 22 Juillet 1867. La contrainte par corps est maintenue en matière criminelle, correctionnelle, et de simple police."

"Article 9. La durée de la contrainte par corps est réglée ainsi qu'il suit :

"De deux jours à vingt jours lorsque l'amende et les autres condamnations n'excèdent pas 50 fr.

"De vingt jours à quarante jours lorsqu'elles sont supérieures à 50 fr. et qu'elles n'excèdent pas 100 fr.

"De quarante jours à soixante jours lorsqu'elles sont supérieures à 100 fr. et qu'elles n'excèdent pas 200 fr.

"De deux mois à quatre mois lorsqu'elles sont supérieures à 200 fr. et qu'elles n'excèdent pas 500 fr.

"De quatre mois à huit mois lorsqu'elles sont supérieures à 500 fr. et qu'elles n'excèdent pas 2,000 fr. D'un an à deux ans lorsqu'elles s'élèvent à plus de 2,000 fr."

Par ces motifs :

Le Tribunal déclare les nommés Licari, François, et Licari, Giuseppe, coupables du délit ci-dessus spécifié; admet en leur faveur le bénéfice des circonstances atténuantes et leur faisant application des dispositions des Articles précités, les condamne : Licari, François, à huit jours de prison et 500 piastres d'amende; Licari, Giuseppe, à quinze jours de prison et 500 piastres d'amende. Dit en ce qui concerne Licari, Giuseppe, que ces peines se confondront avec celles prononcées par Jugement du même jour; ordonne la destruction des marchandises saisies. Ordonne l'affichage du présent Jugement à la porte de la maison de commerce des prévenus et son insertion au "Journal Officiel" Tunisien et au journal Italien "l'Unione," le tout aux frais des prévenus et solidairement par corps envers l'État, aux frais du procès liquidés à 11 fr. 20 c., sauf le coût des

affichages et insertions. Fixe au minimum la durée de la contrainte par corps. Ainsi jugé et prononcé en audience publique les jours, mois, et an que dessus.

Et ont les Président et Juges signé avec le Commis-Greffier.

Le Président,
(Signé) GEFROY.

Les Juges,
(Signé) MAGNIER.
WATRIN.

Le Commis-Greffier,
(Signé) CHAINET.

Inclosure 2 in No. 164.

Extrait des Minutes du Greffe du Tribunal Civil de Première Instance de Tunis.

L'AN 1889, et le 6 Mars, à l'audience Correctionnelle tenue publiquement dans la Salle du Palais de Justice à Tunis, où étaient présents : MM. Geffroy, Chevalier de la Légion d'Honneur, Président; Magnier, Juge; Watrin, Juge Suppléant;

En présence de M. Frope, Substitut du Procureur de la République, occupant le siège du Ministère Public; avec l'assistance de M. Chainet, Paul, Commis-Greffier, et de M. Gognyer, Interprète Judiciaire pour la langue Arabe, a été rendu le Jugement dont la teneur suit :

Entre le Ministère Public, demandeur par acte de Patel, Huissier, à Tunis, en date du 12 Février, 1889, d'une part; et les nommés :

1. Licari, Baldassare, sujet Anglo-Maltaise, né en 1859 à Malte, fils de Carmelo et de Jacquina di Felici, marié, un enfant, débitant Rue Al Djazira, No. 71, à Tunis.

2. Licari, Giuseppe, sujet Anglo-Maltaise, même filiation, liquoriste, à Tunis, Rue d'Espagne, No. 12; comparants, prévenus de tromperie sur la nature de la marchandise vendue, fabrication, vente de boissons falsifiées, d'autre part.

A l'appel de la cause, M. le Procureur de la République a exposé qu'il avait fait citer les prévenus à comparaître par-devant le Tribunal à la présente audience pour se défendre en raison de la prévention ci-dessus indiquée; puis le Greffier a donné lecture des procès-verbaux et des pièces du procès; ensuite il a été procédé à l'audition, hors la présence les uns des autres des témoins produits; avant de déposer chaque témoin a fait serment de dire toute la vérité et rien que la vérité et a dit n'être ni parent ni allié d'aucun des prévenus, ne pas les avoir à son service, et n'être pas au leur; les prévenus ont été interrogés; le Greffier a tenu note des déclarations des témoins et des réponses des prévenus; le Ministère Public a résumé l'affaire et a requis l'application de la loi. Les prévenus, assistés de M^e Bodoy, Avocat défenseur, ont présenté leurs moyens de défense. Puis le Tribunal, après en avoir délibéré conformément à la loi, a statué en ces termes :

Attendu qu'il résulte des débats la preuve que les prévenus se sont rendus coupables d'avoir à Tunis, depuis moins de trois ans et notamment en Janvier 1889, ensemble et de concert :

1. Sciemment vendu ou mis en vente une liqueur dit liqueur "Fernet," qui était falsifiée et nuisible à la santé.

2. Trompé les acheteurs sur la nature de la marchandise vendue en vendant comme sirop de gomme un sirop qui ne contenait pas de gomme.

3. Licari, Giuseppe, d'avoir à Tunis, depuis moins de trois ans, fabriqué une liqueur dite liqueur "Fernet," falsifiée et nuisible à la santé.

Attendu que ces faits constituent les délits prévus et punis par les Articles 413 du Code Pénal, 1, 2, Loi du 27 Mars, 1851, 1, 2, Décret Beylical du 21 Mai, 1888.

Vu les dits Articles ensemble les Articles 52 et 55 du même Code, et 194 du Code d'Instruction Criminelle, et 2 et 9 de la Loi du 22 Juillet, 1867, dont le Président a donné lecture à l'audience et qui sont ainsi conçus :

"Article 423, Code Pénal. Quiconque aura trompé l'acheteur sur le titre des matières d'or et d'argent, sur la qualité d'une pierre fausse vendue pour fine, sur la nature de toute marchandise, sera puni d'un emprisonnement de trois mois au moins et d'un an au plus et d'une amende qui ne pourra excéder le quart des restitutions et dommages-intérêts ni être au-dessous de 50 fr. Le Tribunal pourra ordonner l'affichage du Jugement dans les lieux qu'il désignera et son insertion dans les journaux, le tout aux frais du condamné."

"Loi du 27 Mars, 1851. Article 1^{er}. Seront punis des peines portées par l'Article 423, Code Pénal:—

1. Ceux qui falsifieront des substances ou denrées alimentaires ou médicamenteuses destinées à être vendues.

2. Ceux qui vendront ou mettront en vente des substances qu'ils sauront être falsifiées ou corrompues.

3. Ceux qui auront trompé ou tenté de tromper sur la qualité de la chose vendue.

"Article 2. S'il s'agit de marchandises contenant des mixtions nuisibles à la santé l'amende sera de 50 fr. à 500 fr., l'emprisonnement de trois mois à deux ans."

"Décret Beylical du 21 Mars, 1888. Article 1^{er}. Quiconque aura falsifié ou altéré des substances ou denrées alimentaires ou médicamenteuses destinées à être vendues, aura sciemment vendu ou mis en vente des denrées falsifiées ou corrompues ou aura trompé ou tenté de tromper sur la qualité des choses livrées, sera puni d'un emprisonnement pendant trois mois au moins, un an au plus, et d'une amende qui ne pourra excéder le quart des restitutions et dommages-intérêts ni être au-dessous de 80 piastres. En outre, les objets du délit seront confisqués."

"Article 365 du Code d'Instruction Criminelle, § 2. En cas de conviction de plusieurs crimes ou délits, la peine la plus forte sera seule prononcée."

"Article 55. Tous les individus condamnés pour un même crime ou pour un même délit seront tenus solidairement des amendes et des restitutions des dommages-intérêts et des frais."

"Article 52. L'exécution des condamnations à l'amende aux restitutions, aux dommages-intérêts et aux frais, pourra être poursuivie par la voie de la contrainte par corps."

"Article 194 du Code d'Instruction Criminelle. Tout Jugement de Condamnation rendu contre le prévenu et contre les personnes civilement responsables du délit, ou contre la partie civile, les condamnera aux frais, même envers la partie publique. Les frais seront liquidés par le même Jugement."

"Article 2 de la Loi du 22 Juillet, 1867. La contrainte par corps est maintenue en matière criminelle, correctionnelle, et de simple police."

"Article 9. La durée de la contrainte par corps est réglée ainsi qu'il suit :

"De deux jours à vingt jours lorsque l'amende et les autres condamnations n'excèdent pas 50 fr.

"De vingt jours à quarante jours lorsqu'elles sont supérieures à 50 fr., et qu'elles n'excèdent pas 100 fr.

"De quarante jours à soixante jours lorsqu'elles sont supérieures à 100 fr., et qu'elles n'excèdent pas 200 fr.

"De deux mois à quatre mois lorsqu'elles sont supérieures à 200 fr., et qu'elles n'excèdent pas 500 fr.

"De quatre mois à huit mois lorsqu'elles sont supérieures à 500 fr. et qu'elles n'excèdent pas 2,000 fr.

"D'un an à deux ans lorsqu'elles s'élèvent à plus de 2,000 fr."

Par ces motifs :

Le Tribunal déclare les nommés Licari, Baldassare, et Licari, Giuseppe, coupables du délit ci-dessus spécifié; et leur faisant application des dispositions des Articles précités les condamne: Licari, Baldassare, à huit jours de prison et 500 piastres d'amende; Licari, Giuseppe, à quinze jours de prison et 500 piastres d'amende. Dit en ce qui concerne Licari, Giuseppe, que ces peines se confondront avec celles prononcées par Jugement du même jour. Ordonne la destruction des marchandises saisies. Ordonne l'affichage du présent Jugement à la porte de la maison de commerce des prévenus et son insertion dans le "Journal Officiel" Tunisien et le journal Italien "l'Unione." Le tout aux frais des prévenus et solidairement par corps envers l'État, aux frais du procès liquidés à 11 fr. 20 c., sauf le coût des affichages et insertions. Fixe au minimum la durée de contrainte par corps. Ainsi jugé et prononcé en audience publique les jours, mois, et an que dessus.

Et ont, les Président et Juges signé avec le Commis-Greffier.

Le Président,
(Signé) GEFROY.

Les Juges,
(Signé) MAGNIER.
WATRIN.

Le Commis-Greffier,
(Signé) CHAINET.

Consul Ricketts to the Marquis of Salisbury.—(Received April 30.,

(No. 35.)

My Lord,

Tunis, April 22, 1889.

I HAVE the honour to acknowledge the receipt of a despatch No. 33 of the 12th instant, signed Sir P. Currie, requesting me to report on the case of Salvatore Cassar.

The statements made by Mr. Cassar are:—

1. That several officers of the Municipality of Tunis presented themselves in his shop to inspect his goods, and having found some margarine manufactured by Vidal Engaurran, of Marseilles, took a sample of it, the rest being placed in a box sealed with the seal of the Municipality.

2. That on the 19th February he was summoned before the Tribunal for an attempt to deceive his customers by the sale of the margarine.

3. That the crime of which he was accused was not proved.

4. That he was then tried for falsification, which was not mentioned in the summons.

5. That this also was not proved.

6. That he was condemned to four days' imprisonment, and fined 80 piastres for falsification.

7. That the Judgment is based on the Bey's Decree of the 21st May, 1888, with the Penal Code.

8. That criminal affairs ought to be judged by French law.

9. That no Frenchmen have been condemned to imprisonment or to have the Judgment published in the papers and nailed on the doors of their shops.

As regards the first point, the facts of this case would appear to have been as follows:—

About two months ago the officers of the Municipality, with M. Sbrana, Municipal Veterinary Surgeon entered the shop of Salvatore Cassar. M. Sbrana asked Mrs. Cassar if that (pointing to a box) was butter? She answered, "It is ordinary butter of 2 piastres. If you want good butter of 2 fr., here it is." After that M. Sbrana asked for 30 oz. of this low-classed butter, paid the 2 piastres, and took a receipt for it. This he took away with him.

Immediately after this he asked for some more butter, which was given to him, sealed up in a parcel, and left the shop. This was not paid for.

Herewith inclosed are affidavits on this subject made at this Consulate by Mrs. Cassar and Salvatore Cassar, showing that Salvatore was absent at the time the butter was first sold; that Salvatore made no sale to the Municipality whatever; that he did not attempt to deceive them, and that 4½ kilog. of his goods were sequestered.

Some days after this Salvatore was summoned before the French Court, accused of cheating at the time of selling his goods.

From these facts it will be noticed—

1. That although Salvatore was summoned for deception while selling the butter, he was in reality absent at that time.

If, therefore, there had been any deception exercised, the person that sold the butter, namely, Mrs. Cassar, and not Salvatore, should have been summoned.

2. There is no doubt that Mrs. Cassar sold what is called by the Maltese here "French butter," and that she really believed the article in question was second-class butter.

There was, in short, no attempt made on her part to deceive any one. The butter had been imported from France, and was sold in the tins in which it had been imported. Nor, if there had been any intention of using deceit, would the tickets, as affirmed in the sentence, have been left on the tins.

3. As no notice was given to this Consulate prior to the entry of this shop and the sealing of the goods, it must be assumed that this act involved a violation of the domicile of a British subject.

The advocate who conducted the case before the Court assured me there was no evidence whatever produced showing that Salvatore Cassar had attempted to deceive the authorities, and that when he mentioned this to the Court he was ordered to defend his client on another accusation not entered in the summons, namely, that of adulteration. This accusation was rebutted by the fact that the butter had been imported in tins from Marseilles, with the French manufacturer's name printed on

them in large letters. It was sold in the very tins in which it had been imported, and if any one is responsible it is the French manufacturer of Marseilles, and not the poor Maltese tradesmen of this place.

Herewith inclosed is the sentence of the French Tribunal.

In view of the facts hereinbefore mentioned one fails to see the justice of this decision. Even the Court admits there are extenuating circumstances. This being so, why, it may be asked, should Salvatore have been condemned to imprisonment?

Under English law imprisonment is only resorted to when a tradesman, on a second offence, has sold goods injurious to health, knowing them to be so. If, then, the dealing with this matter be held to have been in accordance with French law, the sooner this latter be altered the better, for it is certainly more calculated to foster abuses than to cause improvement.

It is, indeed, difficult to understand why the Maltese should be imprisoned and subjected to this persecution, when the greatest punishment inflicted as yet on a French subject has been a slight fine. Many French grocers continue, I am told, to sell the same sort of goods, but have not been interfered with by the Municipality.

In conclusion, I would beg to draw your Lordship's attention to the fact that Salvatore Cassar has been condemned by the Bey's law as well as by French law, the Decree of the 21st May, 1888, ordering fine and imprisonment; whereas, under the arrangement entered into in 1882-83 on the abolition of Consular jurisdiction, it was agreed that criminal cases should be decided on by French law only. If, then, this be admitted as a precedent, and no notice taken of it, other laws will, no doubt, be made by the Bey, and by degrees a Beylical Code of Justice will be established in this country.

I have, &c.
(Signed) G. T. RICKETTS.

Inclosure 1 in No. 165.

Affidavit of Maddalena Cassar.

(Translation.)

I, THE undersigned Maddalena, Widow Cassar, without profession and a British subject, make oath and say:—

About two months ago, during the absence of my son Salvatore, M. Sbrana, Municipal Veterinary Surgeon, presented himself in his grocer's shop accompanied by two Municipal agents. He asked me if I had butter, and I answered that I had French butter. He said he wanted 1 rotolo, which I gave him from a tin box bearing the manufacturer's name. Then he asked me its price. I answered, 2 piastres, which he paid me. At this moment the Municipal agent ordered me to give him a piece of the same butter, and having given it to him, he wrapped it in a piece of paper, sealed it, and gave it to me. I never knew that that quality of butter is called "margarine." I thought it was called "French butter," as I declared to Sbrana. The latter wanted an invoice. My son, having just arrived, made him the invoice. I did not dare refuse to sell or deliver in the presence of the Municipal agents.

(Signed) MADDALENA CASSAR.

Tunis, April 17, 1889.

Inclosure 2 in No. 165.

Affidavit of Salvatore Cassar.

(Translation.)

I, THE undersigned Salvatore Cassar, a trader and a British subject, make oath and say:—

That about a month and a-half ago, whilst in my grocer's shop, Rue de la Kasbah, No. 2, M. Sbrana, Municipal Veterinary Surgeon, accompanied by a Commissary of Police and two agents of the Municipality, entered my said shop and said to me, approaching to the tin box of French butter, of the firm Vidal Eugaurran, of Marseilles, "This is not butter, but margarine." I answered, "I know that; it is the butter which comes from France." Then he ordered me to put in a smaller box the margarine I had for sale, about 4½ kilog., and he sealed it with the seal of the Municipality. I obeyed because I was afraid of the Municipal agents. We Maltese call the margarine "French butter." I make oath that the said merchandize is

exactly as I have received it from M. Nicola Farrugia, from whom I bought it. It is only lately that I came to know it is called "margarine."

(Signed) SALVATORE CASSAR.

Tunis, April 18, 1889.

Inclosure 3 in No. 165.

Extrait des Minutes du Greffe du Tribunal Civil de Première Instance de Tunis.

L'AN 1889, et le 27 Mars, à l'audience Correctionnelle tenue publiquement dans la Salle du Palais de Justice à Tunis, où étaient présents: MM. Geffroy, Chevalier de la Légion d'Honneur, Président; Dramard, Juge; Watrin, Juge Suppléant; en présence de M. Fropo, Substitut du Procureur de la République, occupant le siège du Ministère Public; avec l'assistance de M. Chainet, Paul, Commis-Greffier, et de M. Coleca, Interprète, requis, assermenté *ad hoc* pour la langue Maltaise, a été rendu le Jugement dont la teneur suit:

Entre le Ministère Public, demandeur par acte de Patél, Huissier, à Tunis, en date du 19 Mars, 1889, d'une part; et le nommé Cassar, Salvatore, sujet Anglo-Maltaise, né le 4 Mai, 1870, à Tunis, fils de Claudio et de Maddalena Cassar, célibataire, épicière, à Tunis, No 2, Rue de la Kasbah, comparant, prévenu de tromperie sur la nature de la chose vendue, d'autre part.

A l'appel de la cause, M. le Procureur de la République a exposé qu'il avait fait citer le prévenu à comparaître par-devant le Tribunal à la présente audience pour le défendre en raison de la prévention ci-dessus indiquée; puis le Greffier a donné lecture des procès-verbaux et des pièces du procès; ensuite il a été procédé à l'audition, hors la présence les uns des autres, des témoins produits; avant de déposer, chaque témoin a fait serment de dire toute la vérité et rien que la vérité et a dit n'être ni parent ni allié du prévenu, ne pas l'avoir à son service et n'être pas au sien; le prévenu a été interrogé; le Greffier a tenu note des déclarations des témoins et des réponses du prévenu. Le Ministère Public a résumé l'affaire et a requis l'application de la loi.

Le prévenu, assisté de M^e Camilleri, Avocat défenseur, a présenté les moyens de défense. Puis le Tribunal, après en avoir délibéré conformément à la loi, a statué en ces termes:

Attendu que la déposition de Bertainchamps, Directeur du Laboratoire de Chimie Agricole, qui a examiné le beurre saisi chez Cassar, il résulte que ce beurre était mélangé de margarine dans la proportion de plus de cinquante pour cent; que Cassar reconnaît qu'il a vendu ce produit, qu'il l'a au surplus mis en vente;

Attendu que Cassar est prévenu de tromperie sur la nature de la chose vendue; mais attendu que la fraude à laquelle il s'est livré a eu pour résultat non de modifier absolument dans son essence la denrée alimentaire vendue ou mise en vente, mais d'en détériorer, d'en altérer la substance par l'introduction d'une autre denrée d'une valeur moindre; que le fait ainsi précité constitue non la tromperie sur la nature de la chose vendue, mais la falsification d'une denrée alimentaire;

Attendu que le prévenu a soutenu à l'audience qu'il vendait le produit saisi chez lui comme de la margarine et non comme du beurre, et à un prix moindre que le beurre;

Attendu que cette version est inadmissible, le prix du beurre étant supérieur à celui de la margarine, et une vente effectuée dans les conditions alléguées par Cassar ne pouvant pas dès lors être rémunératrice pour lui; qu'il a d'autre part prétendu à l'information que ses clients n'ignoraient pas qu'ils achetaient de la margarine mêlée à du beurre, et qu'ils payaient le mélange moins cher. Mais attendu que ce mélange de deux produits non identiques, ni comme prix, ni comme qualités essentielles, et leur mise en vente sont précisément ce qui constitue la fraude que le Décret Beylical du 21 Mai, 1888, comme la Loi de 1851, ont pour but de réprimer, qu'une étiquette indiquant ce mélange ne ferait pas disparaître le délit;

Attendu que ce fait constitue le délit prévu et puni par les Articles 423 du Code Pénal, un Décret du 21 Mai, 1888;

Mais attendu qu'il existe dans la cause des circonstances atténuantes en faveur du prévenu, et qu'il y a lieu de le faire bénéficier des dispositions de l'Article 463 du Code Pénal;

Attendu qu'il y a lieu également de lui faire application de l'Article 365 du Code d'Instruction Criminelle, lequel ordonne qu'en cas de conviction de plusieurs crimes ou délits la peine la plus forte est seule appliquée;

Vu les dits Articles ensemble les Article 52 et 55 du même Code, et 194 du Code d'Instruction Criminelle, et 2 et 9 de la Loi du 22 Juillet, 1867, dont le Président a donné lecture à l'audience, et qui sont ainsi conçus:—

"Article 423, Code Pénal. Quiconque aura trompé l'acheteur sur le titre des matières d'or ou d'argent, sur la qualité d'une pierre fausse vendue pour fine, sur la nature de toute marchandise; par usage de faux poids ou de fausses mesures, aura trompé sur la quantité des choses vendues, sera puni de l'emprisonnement pendant trois mois au moins, un an au plus, et d'une amende qui ne pourra excéder le quart des restitutions et dommages-intérêts, ni être au-dessous de 50 fr."

"Article 1^{er}, Décret du 21 Mai, 1888. Quiconque aura falsifié ou altéré des substances ou denrées alimentaires ou médicamenteuses destinées à être vendues, aura sciemment vendu, ou mis en vente, des substances ou denrées alimentaires ou médicamenteuses, falsifiées ou corrompues, ou aura trompé, ou tenté de tromper, sur la qualité des choses livrées sera puni de l'emprisonnement pendant trois mois au moins, un an au plus, et d'une amende qui ne pourra excéder le quart des restitutions et dommages-intérêts ni être au-dessous de 80 piastres. En outre, les objets du délit, s'ils appartiennent encore au vendeur, seront confisqués."

"Article 365 du Code d'Instruction Criminelle, § 2. En cas de conviction de plusieurs crimes ou délits, la peine la plus forte sera seule prononcée."

"Article 463. Dans tous les cas où la peine de l'emprisonnement et celle de l'amende sont prononcées par le Code Pénal, si les circonstances paraissent atténuantes, les Tribunaux Correctionnels sont autorisés, même en cas de récidive, à réduire l'emprisonnement même au-dessous de six jours, et l'amende même au-dessous de 16 fr. Ils pourront aussi prononcer séparément l'une ou l'autre de ces peines, et même substituer l'amende à l'emprisonnement, sans qu'en aucun cas elle puisse être au-dessous des peines de simple police."

"Article 52. L'exécution des condamnations à l'amende, aux restitutions, aux dommages-intérêts, et aux frais, pourra être poursuivie par la voie de la contrainte par corps."

"Article 194 du Code d'Instruction Criminelle. Tout Jugement de Condamnation rendu contre le prévenu et contre les personnes civilement responsables du délit, ou contre la partie civile, les condamnera aux frais, même envers la partie publique. Les frais seront liquidés par le même Jugement."

"Article 2 de la Loi du 22 Juillet, 1867. La contrainte par corps est maintenue en matière criminelle, correctionnelle, et de simple police."

"Article 9. La durée de la contrainte par corps est réglée ainsi qu'il suit: De deux jours à vingt jours lorsque l'amende et les autres condamnations n'excèdent pas 50 fr. De vingt jours à quarante jours lorsqu'elles sont supérieures à 50 fr., et qu'elles n'excèdent pas 100 fr. De quarante jours à soixante jours lorsqu'elles sont supérieures à 100 fr. et qu'elles n'excèdent pas 200 fr. De deux mois à quatre mois lorsqu'elles sont supérieures à 200 fr. et qu'elles n'excèdent pas 500 fr. De quatre mois à huit mois lorsqu'elles sont supérieures à 500 fr. et qu'elles n'excèdent pas 2,000 fr. D'un an à deux ans lorsqu'elles s'élèvent à plus de 2,000 fr."

Par ces motifs:

Le Tribunal déclare le nommé Cassar, Salvatore, coupable du délit ci-dessus spécifié, admet en la faveur le bénéfice des circonstances atténuantes, et lui faisant application des dispositions des Articles précités, le condamne à quatre jours de prison et 80 piastres d'amende, ordonne la destruction de la marchandise saisie et . . . par corps envers l'État, aux frais du procès liquidés à 9 fr. 25 c. Fixe au minimum la durée de la contrainte par corps."

Ainsi jugé et prononcé en audience publique les jour, mois, et an que dessus. Et ont, les Président et Juges, signé avec le Commis-Greffier.

Le Président,
(Signé) GEFFROY.

Les Juges,
(Signé) S. DRAMARD.
WATRIN.

Le Commis-Greffier,
(Signé) CHAINET.

Pour expédition conforme:

Le Commis-Greffier,
(Signé) CHAINET.

Vu:

Le Juge Taxateur,
(Signé) G. MARTINEAU DES CHIRNEY.

No. 166.

The Marquis of Salisbury to the Earl of Lytton.

(No. 204 A.)

My Lord,

Foreign Office, April 30, 1889.

THE French Ambassador at this Court called at the Foreign Office to-day, and, in the course of conversation, complained that Her Majesty's Consul at Tunis refused to communicate freely with the French Resident on various small matters of complaint, but, instead of doing so, had made them the subject of consultation with the Italian Consul-General, without M. Massicault's knowledge. His Excellency gave a recent instance of this.

Signor Crispi, the Italian Minister for Foreign Affairs, in conversation with the French Ambassador in Rome, produced copies of two telegrams addressed by his Departmental superior to Mr. Levy, with whose case your Excellency is familiar: one of the telegrams contained an inquiry whether Mr. Levy contemplated obtaining letters of naturalization; the other informed him, at a subsequent date, that his services would not be required any further.

Those telegrams must, M. Waddington said, have been communicated to the Italian Consul-General by Mr. Ricketts. I replied that I would inquire into the circumstances, but observed that there was no direct evidence that Mr. Ricketts had acted in the manner complained of, and that the telegrams in question might have been procured from another source. But I added that I quite agreed with his Excellency that, as a general rule, Mr. Ricketts ought to communicate freely with M. Massicault in respect of any subject of complaint that he might have.

I am, &c.

(Signed) SALISBURY.

No. 167.

Admiralty to Foreign Office.—(Received May 1.)

Sir,

Admiralty, April 29, 1889.

WITH reference to previous correspondence respecting the defensive works, &c., going on at Bizerta, I am commanded by my Lords Commissioners of the Admiralty to request you will state to the Marquis of Salisbury that Captain May, of Her Majesty's ship "Racer," recently visited Tunis and Bizerta, and reports as follows:—

"Tunis, April 1889.

"Tunis is to furnish 400,000*l.* for the improvement of the harbour of Goletta, the work to be extended over seven years.

"Two breakwaters are being constructed to form an entrance.

"No alterations or additions have been made to the defence works.

"The harbour is being dredged.

"Bizerta, April 1889.

"No extensive operations are being taken.

"No defence works seem to be at present projected.

"One first class torpedo-boat is stationed at Bizerta, and there is a small floating dock for the repairs of this boat. The channel has been increased to a depth of 2 metres.

"There is no plant for the manufacture of torpedoes.

"Nothing has been done towards cutting the proposed canal.

"It is not believed at Bizerta that any money will be available for the place."

I am, &c.

(Signed) EVAN MACGREGOR.

No. 168.

Admiralty to Foreign Office.—(Received May 2.)

(Confidential.)

Sir,

Admiralty, April 29, 1889.

WITH reference to previous correspondence respecting the defensive works, &c., going on at Bizerta, I am commanded by my Lords Commissioners of the Admiralty

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to request you will state to the Marquis of Salisbury that Captain May, of Her Majesty's ship "Racer," recently visited Tunis and Bizerta, and reports as follows:—

"Tunis, April , 1889.

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"One first-class torpedo boat is stationed at Bizerta, and there is a small floating dock for the repairs of this boat. The channel has been increased to a depth of 2 metres.

"There is no plant for the manufacture of torpedoes.

"Nothing has been done towards cutting the proposed canal.

"It is not believed at Bizerta that any money will be available for the place."

I am, &c.

(Signed) EVAN MACGREGOR.

No. 169.

Consul Ricketts to the Marquis of Salisbury.—(Received May 6.)

(No. 36.)

My Lord,

Tunis, April 30, 1889.

I HAVE the honour to transmit, herewith inclosed, to your Lordship, a Petition signed by Vincenzo Spiteri and dated the 28th March, stating that some time prior to the 23rd March last his premises were entered by the Municipal officers, who sequestered a portion of the coffee sold by him, leaving a small packet sealed up in his shop with the seal of the Municipality.

That on the 23rd instant he was summoned before the French Tribunal and condemned to imprisonment for eight days, a fine of 80 piastres, and copy of the Judgment to be nailed on his shop door. I have not as yet been able to obtain a copy of the Sentence, but will forward it as soon as received. The petitioner, it will be observed, was condemned for adulteration of his coffee, the chemist here having, I believe, asserted it had been mixed with bread, potatoes, or French beans.

Vincenzo Spiteri, who is known as an honest trader, having brought the sample of coffee to me which had been sealed up by the Municipality and left in his shop, I took the opportunity of sending it to Malta to the Government Chemist to be analyzed; the result of this analysis, which is in every way favourable to the petitioner, will be found in Inclosure No. 2. Herewith inclosed are also copies of my letter to the Acting Chief Secretary, asking for an analysis to be permitted and the reply of his Excellency on this subject.

The Government Chemist of Malta states the sample contained no substance in which there was starch, and that the woody fibres shown proved accidental adulteration; in other words, that if any sort of adulteration did exist, and this was not clear, it was certainly not wilful; such is the opinion of the Government Chemist on this matter at Malta, an impartial expert. I am not able to obtain a copy of the analysis of the Government Chemist of Tunis, but that it is in every way adverse to the accused is evident from the Sentence.

The Judges of this Court have no doubt given their opinion in accordance with the Report of the Beylical Government experts, but as the statement of these latter, whatever it be, would appear to be altogether wanting in accuracy, the Sentence is unjust and ought not to be carried out. Should your Lordship be of this opinion, I trust representations will be allowed to be made at Paris in reference to this matter.

The conduct of the authorities in this instance is a convincing proof that they ought not to be allowed to enter the domicile of a British subject without the consent of the Consulate being first obtained. The entry, it will be observed, of this domicile took place prior to my receiving your Lordship's instructions in reference to the case of Licari.

No shop has been entered since the protest made by me on the 15th instant as regards the case of Brothers Ellul. It is, however, to be feared, unless some satisfac-

tion be demanded for this breach of Treaty, which was committed immediately after my communication of your Lordship's note of the 25th March to the Resident, that ere long an attempt will be again made to carry out the policy thus inaugurated.

I have, &c.

(Signed) G. T. RICKETTS.

Inclosure 1 in No. 169.

Mr. Spiteri to Consul Ricketts.

(Translation.)

Sir,

Tunis, March 28, 1889.

THE Undersigned, Vincenzo Spiteri, Her Britannic Majesty's faithful servant, residing in this city, has the honour to inform you that he has been residing in this town for over fifty-five years, and has a large family.

That he has a grocer's shop at this place.

That during his whole life-time he has never been called before a Tribunal for correctional or criminal cases.

That a short time ago several Municipal officers presented themselves at his grocery, and made a perquisition.

Not having found anything to reproach him for, they pretended that my ground coffee was falsified.

That being quite certain that they were lying, I begged them to place under seal a small portion of the ground coffee which they were going to sequester. The Municipal officer adhered to this, and placed the seal of the Municipality that the contents might not be changed. I delivered without delay the sealed packet to Her Britannic Majesty's Consulate.

To my great surprise, on the 23rd instant I have been summoned to appear before the Correctional Tribunal to answer for the crime of having tried to deceive the public by selling falsified coffee.

That on the 27th instant I have been condemned to eight days' imprisonment, fined 80 piastres, and copy of the Judgment to be nailed on the door of my shop.

That such a Sentence has been pronounced in execution of the Bey's Decree of 1888.

That Her Majesty's Government, when the Consular jurisdiction was given up, made arrangements that criminal affairs should be subjected to French law only.

I take the liberty to observe to you that several French subjects have been summoned for the same crime before the same Tribunal, composed of the same Judges, who have only been fined.

This state of things shows that justice in Tunis is applied according to the nationality of the defendants, and not according to justice.

That the nailing of the Judgments on the doors is only intended to turn away purchasers from their shops, being foreigners.

That at present in Tunis exists only war to foreigners.

For these reasons the Undersigned begs you will submit his case to Her Majesty's Government, that he may be protected against the vexations of the authorities of this country.

(Signed) VICENZO SPITERI.

Inclosure 2 in No. 169.

Consul Ricketts to Count Strickland.

Sir,

Tunis, March 25, 1889.

I HAVE the honour to forward herewith a sample of coffee which was taken by the police from the shop of a Maltese subject, named Vincenzo Spiteri; it bears the seal of the Municipality.

As the authorities assert, through their experts, the sample taken to be adulterated, and are likely to fine him, and M. Spiteri affirms the coffee is unadulterated, I shall feel extremely obliged if you would be pleased to permit the same to be analyzed by Government experts at Malta, and a certificate of the analysis to be forwarded to this Consulate.

Should any expenses be incurred in this matter, they will be defrayed by this Consulate.

I have, &c.

(Signed) G. T. RICKETTS.

Inclosure 3 in No. 169.

Count Strickland to Consul Ricketts.

Sir,
 Chief Secretary's Office, Valetta, April 18, 1889.
 WITH reference to your despatch of the 25th March last, forwarding a sample of coffee with a request that the same may be analyzed by Government experts at this place, I am desired by his Excellency the Governor to forward, herewith inclosed, copy of a Report on the subject from the Analytical Chemist attached to the Sanitary Office, for which you will have the goodness to remit 10s.

I have, &c.
 (Signed) G. STRICKLAND,
 Acting Chief Secretary to Government.

Inclosure 4 in No. 169.

Dr. Scicluna to the Superintendent of Police, Malta.

Sir,
 Police Office, April 15, 1889.
 WITH reference to the Chief Secretary's Minute of the 2nd instant, I have the honour to report that I have examined the sample of coffee in question, and that the results of my analysis are the following, viz. :—

Physical and chemical characters—
 Dark-coloured powder, not caking in mass, well floating on water, with no sinking particles.
 Density of the infusion at 60 degrees Fahrenheit, 1,008·8.
 Alcoholic extract, 29 per cent.
 Ash, 4 per cent.
 No reaction with iodine.
 Microscopical characters—
 Small angular cells, with drops of oily matter, no starch, no large and round cells, nor dotted ducts or *rasa laticentia*; very few woody fibres in one or two preparations.

I therefore retain that no chicory, nor roasted corn or other substance containing starch, exists in the sample of coffee, and that the very few woody fibres found in it are rather accidental than a real adulteration.

I have, &c.
 (Signed) DR. G. CARUANA SCICLUNA.

No. 170.

Messrs. A. F. and R. W. Tweedie to the Marquis of Salisbury.—(Received May 6.)

My Lord,
 5, Lincoln's Inn Fields, London, May 3, 1889.
 ON the 10th ultimo we wrote your Lordship, in relation to the affairs of our client, General Ben Ayad, of Tunis, but as we have to-day received a further very pressing letter from him, we venture to again address your Lordship without waiting for a reply to our former letter.

The position of General Ben Ayad and his request would appear to be as follows:—

In the course of proceedings before Messrs. de Blignières and Dingli, the arbitrators appointed in 1884 to settle the matters in dispute between the Tunisian Government and General Hamida-ben-Ayad, certain documents were put in by the Tunisian Government and General Ben Ayad respectively. The Secretary or Registrar of the Board of Arbitration was a M. Menant, one of the officials of the French Consulate in Tunis, and it is assumed that, after the award of the arbitrators was given in May 1884, these documents were deposited at the French Consulate.

General Ben Ayad now wants to obtain (1) a certified copy of the claims and demands presented in his name to the arbitrators; (2) a certified copy of the claims and demands presented to the arbitrators by the Tunisian Government; and (3) a certified copy of a receipt or release which General Ben Ayad gave to M. Menant when the latter at the issue of the arbitration proceedings returned some of the documents which General Ben Ayad had produced before the arbitrators. General Hamida-ben-Ayad is clearly entitled to these copies of documents, which are

No. 169*.

Pro-memoria communicated to the Marquis of Salisbury by M. Jusserand, May 6, 1889.)

LE Gouvernement Français a eu, en diverses circonstances, qui ont été verbalement signalées à sa Seigneurie le Marquis de Salisbury, le regret de constater que Mr. Ricketts, Consul d'Angleterre à Tunis, n'avait pas pris possession du poste qui lui a été confié il y a quelque temps avec les sentiments de conciliation dont son prédécesseur s'était toujours montré animé, et que le Gouvernement de la Reine a bien voulu recommander toujours à ses Agents.

Il n'y a lieu de rappeler ici que pour mémoire les réclamations formulées par Mr. Ricketts au sujet des fonctionnaires étrangers employés dans la Régence. Sans, à ce qui semble, avoir eu l'idée que des renseignements aussi graves méritaient d'être vérifiés et qu'il n'était peut-être point très correct d'en appeler aux Gouvernements intéressés avant d'avoir eu, du moins, une explication avec le Résident-Général Français, Mr. Ricketts a cru pouvoir écrire à l'Ambassadeur d'Angleterre à Paris "que les Maltais avaient tous reçu l'ordre de quitter le service Tunisien s'ils ne se faisaient pas naturaliser Français." Il s'est trouvé que cette indication était fautive, ainsi qu'il a été facile à M. le Ministre des Affaires Étrangères de le montrer à Lord Lytton, de qui il avait reçu connaissance de l'assertion sus-énoncée. Rien n'eût été plus aisé à Mr. Ricketts que de s'en assurer, mais il semble avoir une tendance à provoquer des incidents diplomatiques, et il n'est pas possible de douter que le Gouvernement de la Reine ne considère, ainsi que nous-mêmes, cette tendance comme très fâcheuse. Quoi qu'il en soit, un échange de notes ayant eu lieu à ce sujet, à Paris, le fait en question n'est rappelé ici que pour mémoire.

D'autres incidents diplomatiques ont été suscités depuis par le même Agent et ont fait, en dernier lieu, l'objet d'une conversation que l'Ambassadeur de la République a eu, le 30 Avril, avec sa Seigneurie le Marquis de Salisbury. Il s'agissait, cette fois, des visites faites par des Commissaires de Police, en vue de saisir et de détruire des denrées alimentaires falsifiées, et dont la vente était dangereuse au point de vue de la santé publique. Il est à peine besoin de faire remarquer que ces saisies ont été opérées dans l'intérêt commun de toute la population; que le Gouvernement Protecteur et le Gouvernement Local s'exposaient à de justes reproches s'ils négligeaient de prendre contre les falsificateurs des précautions de cette nature; enfin, que ces saisies ont été faites jusqu'ici avec des avantages notables pour les habitants, sans provoquer la moindre observation. Il en a été relevé plus de 150, pour une période de moins d'un an, qui ont été effectuées chez des négociants Maltais.

Mr. Ricketts paraît être avisé d'une manière assez soudaine, que ces opérations pouvaient servir d'occasion à un incident international, et il en a saisi les Chancelleries. Ses protestations ont porté d'abord sur une saisie effectuée chez un Sieur Licari, marchand de liqueurs, puis sur une saisie effectuée chez un Sieur Ellul, marchand de beurre; il paraît décidé à les renouveler chaque fois que le Gouvernement exercera le droit et le devoir auxquels il ne saurait renoncer de veiller, autant qu'il peut dépendre de lui, à la salubrité publique.

Mr. Ricketts appuie par les arguments suivants sa protestation. D'après lui, la perquisition et la saisie opérées chez le Sieur Licari ont été irrégulières parce qu'elles ont été ordonnées par la Municipalité, non par la Justice; et que le sequestre a eu lieu avant que les Tribunaux Français fussent saisis de l'affaire. Il ne proteste point contre la visite préliminaire de l'Inspecteur des Denrées Alimentaires et l'action de la Police Municipale; il a même reconnu la légalité de pareilles visites en s'adressant à la Résidence, au mois d'Août dernier, pour obtenir, à titre gracieux, une atténuation des mesures prises contre des débitants Anglo-Maltais; il s'élève seulement contre la perquisition opérée par le Commissaire de Police; tel est le fond de son argumentation. Il est facile de la réfuter, et d'établir que sa plainte n'est pas plus fondée en fait qu'en droit.

Ce n'est pas comme agent exécutif, c'est en tant qu'agent judiciaire que le Commissaire de Police a procédé dans cette affaire. Mr. Ricketts semble n'avoir pas bien compris les doubles fonctions qu'exercent les Commissaires de Police; cette dualité est cependant plus manifeste dans la Régence qu'ailleurs, puisque, nommés au titre Tunisien par le Bey, ils sont délégués au titre Français par Arrêté du Résident-Général, et prêtent serment en cette qualité devant le Tribunal Français pour exercer les pouvoirs que leur donne le Code d'Instruction Criminelle. C'est en vertu de ce Code qu'ils sont chargés de la police judiciaire, c'est-à-dire, de la recherche des délits;

le Sieur Licari étant prévenu d'un délit prévu par la Loi du 21 Mai, 1888, le Commissaire de Police avait donc qualité pour rechercher ce délit. Bien plus, dans le cas de Licari, il ne s'agit pas seulement de la recherche, mais aussi de la constatation d'un délit; car le débit de liqueurs falsifiées est un cas évident de flagrant délit, et, en pareil cas, aux termes du Code d'Instruction Criminelle, le Commissaire de Police jouit de la même compétence que le Procureur de la République ou que le Juge d'Instruction; il a ainsi le droit de pratiquer sans mandat spécial une visite domiciliaire chez le prévenu (Article 36), de se faire accompagner de personnes capables d'apprécier la nature du délit (Article 43), de saisir les effets et instruments pouvant servir de pièces à conviction (Article 37). C'est précisément ce qu'a fait le Commissaire de Police en se transportant chez Licari, en se faisant accompagner de l'Inspecteur Municipal des Denrées Alimentaires, en saisissant les marchandises falsifiées; et, en agissant ainsi, il a rempli le rôle de Magistrat. Nous devons donc voir dans l'acte contre lequel proteste Mr. Ricketts, non pas une mesure administrative arbitraire, mais une procédure judiciaire minutieusement conforme à la loi Française. Le Consul Anglais se plaignait d'un abus de la Police Municipale; il se trouve protester contre l'exercice même de la Justice Française.

Quand même l'officier de Justice n'aurait pas eu, comme dans le cas présent, une compétence particulière, on ne pourrait pas admettre la prétention du Consul d'intervenir dans les perquisitions faites chez ses nationaux. Ce serait entraver, en effet, l'action de la police judiciaire, qui consiste, aux termes de la loi, dans la recherche des crimes, des délits, et des contraventions. Or, la police judiciaire est définie et réglementée par le Code d'Instruction Criminelle; et, en consacrant la substitution de la juridiction Française à la juridiction Consulaire, le Gouvernement Anglais a admis, *ipso facto*, l'application à tous ses ressortissants des Règles de Procédure Civile ou d'Instruction Criminelle contenues dans les Codes Français. Aux termes de l'Ordre en Conseil du 3 Décembre, 1883, Sa Majesté la Reine a formellement consenti à abandonner la juridiction Consulaire afin que les sujets Britanniques devinssent justiciables des Tribunaux Français aux mêmes conditions que les sujets Français, et dans l'étendue de la juridiction conférée par la loi à ces Tribunaux. Il suffit donc que les opérations du Commissaire de Police soient valables au point de vue de la loi Française pour qu'elles le soient vis-à-vis des sujets Britanniques et de leur Consul.

La réclamation du Consul Anglais n'est donc point justifiée. En fait, le Commissaire de Police a agi dans la plénitude des droits qu'il tient de la loi Française. En droit, la prétention de Mr. Ricketts est incompatible avec le fonctionnement même de la Justice Française, contraire au texte de l'Ordre en Conseil ainsi qu'à des précédents établis depuis quelque temps déjà. Elle est enfin en contradiction absolue avec les dispositions manifestées par Lord Salisbury touchant l'interprétation de l'Ordre en Conseil précité. D'après le Ministre des Affaires Étrangères de la Reine, cet ordre consacre la suppression des Capitulations en Tunisie et ne comporte dans son interprétation aucune des distinctions que voudrait faire admettre Mr. Ricketts. Telle a été, jusqu'à ce jour, sur ce point important, la manière de voir invariable du Gouvernement Britannique, depuis le 1^{er} Janvier, 1884.

Le Gouvernement de la République ne peut douter que le Gouvernement de la Reine, dont les intentions amicales et conciliantes lui sont connues, et qui était précédemment représenté à Tunis par un Agent qui s'y conformait, ne veuille bien prendre des mesures pour que le maintien des bons rapports heureusement existants jusqu'ici dans la Régence ne puisse être troublée par les persistants excès de zèle d'un Consul, dont les actes et l'attitude ne répondent point aux assurances ni aux desirs du Gouvernement de Sa Majesté.

30 Avril, 1889.

practically part of the pleadings before the arbitrators, yet, in reply to Her Majesty's Consul at Tunis, who had forwarded General Ben Ayad's request for these copies to M. Massicault, the French Resident, the latter, or his subordinate, M. Jouglot, has practically refused to deliver the copies claimed.

General Ben Ayad is confident that if the copies he claims are delivered to him, he will be able to show that the existence of certain sums due to him; by the Tunisian Government, was purposely concealed from the arbitrators, and were, therefore, not allowed him in taking the accounts.

General Ben Ayad has a clear right to have these copies delivered to him. The amount at issue is considerable, and the matter of vital importance to him; he therefore confidently relies on the Foreign Office kindly consenting to use their best endeavours with the French Government to obtain a satisfactory reply to his demand.

We may mention that, in the letter just received from General Ben Ayad, he informs us that his advocate, Mr. Bodoy, and Mr. Michallat, his attorney acting under power, have an appointment on Monday next with the British Consul at Tunis, to lay the state of affairs before him.

We venture to urge upon your Lordship the importance of this matter to our client, General Ben Ayad, who would esteem it a great favour that the matter should receive your Lordship's early consideration.

We have, &c.
(Signed) A. F. AND R. W. TWEEDIE.

No. 171.

The Marquis of Salisbury to the Marquis of Dufferin.

(No. 92.)

My Lord,

Foreign Office, May 9, 1889.

WITH reference to Lord Granville's despatch to Sir J. Lumley No. 87 of the 25th April, 1884, I transmit herewith, for your Excellency's information, copy of a despatch from Her Majesty's Consul at Tunis, inclosing a Decree issued by the Bey of Tunis sanctioning the conversion of the Tunisian 4 per Cent. Debt into 3½ per Cent., together with a Law passed by the French Chambers on the same subject in order to carry into effect the financial arrangement concluded between France and Tunis in June 1883.

I am, &c.
(Signed) SALISBURY.

No. 172.

Foreign Office to Consul Ricketts.

(No. 34.)

Sir,

Foreign Office, May 10, 1889.

I AM directed by the Marquis of Salisbury to transmit to you the accompanying copy of a despatch to Her Majesty's Ambassador at Paris,* recording the substance of a conversation between the French Ambassador at this Court and his Lordship in regard to your attitude towards the French Resident in Tunis, and particularly to the alleged communication by you to the Italian Consul-General, without M. Massicault's knowledge, of two telegrams addressed by his Departmental superior to Mr. Levy. I am to instruct you to furnish his Lordship with an explanation of the latter circumstance, together with any observations that you may have to offer upon the general question.

I am, &c.
(Signed) P. CURRIE.

No. 173.

Foreign Office to Consul Ricketts.

(No. 35.)

Sir,

Foreign Office, May 11, 1889.

I AM directed by the Marquis of Salisbury to transmit to you the accompanying copies of correspondence, as marked in the margin,† in regard to an application made

* No. 166.

† Nos. 148, 153, and 170.

by General Ben Ayad for the assistance of Her Majesty's Government to obtain for him copies of certain documents used in the course of the arbitration proceedings in which he was concerned in 1884. These documents are apparently required for the further prosecution of General Ben Ayad's claims against the Tunisian Government.

It does not appear whether or not the documents are the property of General Ben Ayad.

If the General contemplates engaging in further litigation, and the papers in question are necessary to his case, it may be that the proper course for him to adopt, will be to serve the persons in whose custody they are with notice to produce them, and in the event of their refusing to do so, to apply to the proper Court to enforce their production.

But the question whether or not he is legally entitled or not to what he asks, depends upon the law in force in Tunis. I am to instruct you to furnish his Lordship with a Report upon these points mentioned, and generally upon the matter.

I am, &c.
(Signed) P. CURRIE.

No. 174.

Foreign Office to Messrs. A. F. and R. W. Tweedie.

Gentlemen,

Foreign Office, May 11, 1889.

I AM directed by the Marquis of Salisbury to acknowledge the receipt of your letters of the 10th ultimo and 3rd instant respectively, in regard to an application made by General Ben Ayad for the assistance of Her Majesty's Government to obtain for him copies of certain documents used in the course of the arbitration proceedings in which he was concerned in 1884, these documents being required for the prosecution of his claims against the Tunisian Government; and I am to state to you that the matter will be considered.

I am, &c.
(Signed) P. CURRIE.

No. 175.

The Marquis of Salisbury to Consul Ricketts.

(Telegraphic.)

Foreign Office, May 16, 1889, 2:30 P.M.

LICARI and Ellul cases, also real property question, referred to Law Officers.

As a general rule communicate freely with French Resident regarding complaints against Tunisian Administration, but avoid unnecessarily raising irritating discussion.

No. 176.

The Marquis of Salisbury to M. Jusserand.

M. le Chargé d'Affaires,

Foreign Office, May 16, 1889.

I HAVE the honour to acquaint you that the questions at issue between Her Majesty's Consul at Tunis and the local authorities, which form the subject of the *pro-memorandum* that you have placed in my hands, have been submitted to the Law Officers of the Crown for their opinion.

On receiving their Report I shall have the honour of addressing a further communication to you upon the subject.

I have, &c.
(Signed) SALISBURY.

No. 177.

Foreign Office to Consul Ricketts.

(No. 36.)

Sir,

Foreign Office, May 18, 1889.

I AM directed by the Marquis of Salisbury to inform you that the questions raised in your despatches as noted in the margin,* relative to the complaints of Messrs. Licari, Ellul, and Cassar, have been referred to the Law Officers of the Crown for their opinion as to whether the rights secured by Treaty to British subjects have been infringed by the proceedings of the Tunisian police.

In the meantime, I am to observe that the object of those proceedings was to prevent the sale of adulterated food, and that they may therefore be presumed to have been taken in the public interest.

Under those circumstances it was no part of your duty to throw difficulties in the way of the police. You should, on the contrary, co-operate to the best of your ability in the adoption of precautions for preventing fraud and improving the sanitary condition of the inhabitants. When it appears to you that any action is taken which, on the principle I have just stated, it is not expedient to arrest, but which, technically, interferes with the Treaty rights of British subjects, you should communicate at once with the Bey's Government through the French Resident, and request them to take note that by abstaining from interference in that particular case on grounds of public policy, you are not to be understood as in any degree renouncing or diminishing the rights and privileges hitherto enjoyed under Treaty engagement by Her Majesty's subjects.

Lord Salisbury is not in a position, until the Law Officers have reported, to express an opinion as to whether your view of the legal rights of the complainants was a correct one; but apart from law, there is the question of policy to be considered, and you should not lose sight of the importance of avoiding any action by which the rights reserved to British subjects under Treaty should be converted into instruments for embarrassing the ordinary functions of the Local Administration.

I am, &c.
(Signed) P. CURRIE.

No. 178.

Foreign Office to the Law Officers of the Crown.

Gentlemen,

Foreign Office, May 18, 1889.

I HAVE the honour to transmit to you, by direction of the Marquis of Salisbury, the papers noted in the accompanying list, with reference to two cases recently brought to the attention of his Lordship by Her Majesty's Consul at Tunis, in which it is alleged that the domiciles of British subjects, named respectively Licari and Ellul, have been illegally violated.

The facts of both cases are very similar, and, as the considerations of law arising in either case appear to be practically identical, it has been thought well to endeavour to present the cases together in the following summary.

On the 16th December, 1888, the premises of Mr. G. Licari, a British subject, proprietor of a liquor manufactory at Tunis, were entered by the Tunisian police under the orders of an Inspector of the Sanitary Board appointed by the Municipal Council, and some 2,000 bottles of liquor and other articles were seized and placed under seal. This step was taken in consequence of samples of his goods, which had previously been taken by an Inspector, having been declared unfit for consumption on being subjected to analysis by French experts.

In reporting this case to the Foreign Office Mr. Ricketts stated that the Tunisian authorities based their proceedings on the Municipal Decree of the 15th July, 1888, regulating the sale of liquors, and on the XVIIth Article of the Treaty of 1875, by which

* No. 32, December 24, 1888; No. 21, March 19; No. 22, March 25; No. 27, April 2; No. 30, April 11; No. 31, April 15; No. 34, April 22; and No. 35, April 22, 1889; *ante*, Nos. 68, 141, 144, 151, 159, 161, 164, and 165.

it is provided that "manufactories" (of British subjects) "and their appurtenances, being immovable property, shall be subject to the provisions of the Convention of the 10th October, 1863, relative to the permission granted to British subjects to hold real property in the Regency of Tunis."

Mr. Ricketts further suggested that although this line of argument might perhaps have been admitted had the act complained of proceeded in the first instance under an order of the French Tribunals, Mr. Licari's premises had, in fact, been entered under no higher authority than that of an agent appointed by the Municipal Council, and without the previous knowledge and sanction of Her Majesty's Consul-General (Consul Ricketts' No. 32 of the 14th December, 1888).

In the following January Mr. Ricketts reported (No. 9 of the 25th January, 1889) that the Bey had on the 3rd of that month issued a Decree establishing a Sanitary Commission with the French Consul as President. In reply to his inquiries with regard to the Commission, Mr. Ricketts was informed (to Mr. Ricketts No. 22 of the 22nd February, 1889) that Her Majesty's Government had no objection to the transfer to this body of the functions hitherto exercised by the Municipality relative to sanitary business. As regarded, however, the enforcement of any Sanitary Regulations, Her Majesty's Government held that the French Tribunals had alone power to execute process on foreigners, and that therefore the dwelling of a British subject could not be forcibly entered by order of the Sanitary Commission alone. Mr. Ricketts was accordingly instructed to act in conformity with these views, but to make no protest unless a violation of a British domicile should take place by its being entered without his consent by Tunisian officials acting without any further authority than the orders of the Sanitary Commission.

Meanwhile, on the 4th February, Mr. Ricketts had been informed (No. 15 of the 4th February, 1889), in reply to his despatch No. 32 respecting the Licari case, that the French Tribunals were entitled to issue process to be executed on foreigners and their residences in all matters which came within the civil or criminal jurisdiction of these Tribunals, but that the matter in question, not having been brought before them, was a case of process issued by the native Municipality alone, and in violation of immunities secured to British subjects by Treaty. He was therefore instructed to make a representation to this effect to the French Resident.

In March Mr. Ricketts reported (No. 21 of the 19th March and No. 22 of the 25th March) that the case had been submitted by the Municipality to the French Courts, and that Mr. Licari had been condemned by them to fine, imprisonment, and forfeiture of his goods. Copies of the Judgment against Giuseppe and Emmanuele Licari, and also of that against Francesco and Baldassare Licari, were forwarded to the Foreign Office by Mr. Ricketts in his despatches No. 30 of the 11th April and No. 34 of the 22nd April, 1889, which are inclosed herewith.

On the 25th March Mr. Ricketts made the representation to the French Resident which he had been instructed to make respecting this case by the Foreign Office despatch No. 15 of the 4th February, 1889 (Mr. Ricketts' telegram of the 3rd April, 1889).

In April Mr. Ricketts reported (No. 31 of the 15th April, 1889) that the premises of Mr. A. Ellul, a butter merchant, had been entered by the police under the orders of delegates from the Municipality for the enforcement of sanitary measures, without any judicial process having been instituted against Mr. Ellul, and without the previous consent of Her Majesty's Consul-General having been obtained.

In the note which Mr. Ricketts addressed to the French Resident, protesting against these proceedings, he seems to have based his remonstrances on the fact that samples of Mr. Ellul's goods had been taken away contrary to his wish, and that such a proceeding on the part of the Tunisian authorities amounted to a violation of the XXIIIrd Article of the Treaty of 1875, which stipulates that "no British subject shall be compelled to sell anything to a Tunisian against his free will."

A Memorandum, which is in the nature of a reply to the representation made by Mr. Ricketts on the 25th March, was communicated to the Foreign Office on the 6th May by the French Chargé d'Affaires.

The Memorandum reviews the Licari and Ellul cases from the French point of view, and maintains that the action of the municipal officers was authorized by French law, and did not require the previous sanction of the British Consul.

I am to request that you will take the papers transmitted herewith into your consideration, and that you will favour Lord Salisbury with your opinion as to whether the action of the Tunisian authorities in either or both of these cases constituted a violation, and, if so, in what respects, of the existing Treaty rights of British subjects;

and I am to add that his Lordship will be glad at the same time to be favoured with any general observations which you may have to offer on the case.

I am, &c.
(Signed) P. CURRIE.

List of Papers.

1. Treaty of October 10, 1863, relative to the holding of real property by British subjects in Tunis
2. Convention with Tunis of July 19, 1875.
3. Order in Council of December 31, 1883, abolishing British Consular jurisdiction in Tunis.
4. Municipal Decree of July 15, 1888, regulating the sale of liquors in Tunis.
5. Consul Ricketts, No. 32, December 24, 1888.
6. " " No. 9, January 25, 1889.
7. To Consul Ricketts, No. 15, February 4, 1889.
8. " " No. 22, February 22, 1889.
9. Consul Ricketts, No. 21, March 19, 1889.
10. " " No. 22, March 25, 1889.
11. " " Telegraphic, April 3, 1889.
12. " " No. 30, April 11, 1889.
13. " " No. 31, April 15, 1889.
14. " " No. 34, April 22, 1889.
15. Memorandum communicated by M. Jusserand, May 6, 1889.

No. 179.

Mr. Egerton to the Marquis of Salisbury.—(Received May 22.)

(No. 249.)
My Lord,

Paris, May 17, 1889.

WITH reference to your Lordship's despatch No. 178 of the 16th ultimo, asking for the opinion of Her Majesty's Ambassador as to whether Mr. Levy's wish to retire from the French service with a larger indemnity than that which he has been granted with promise of re-employment, or with a pension, is likely to be acceptable to the French Government. I fear that I could not answer the question without making inquiry on this head at the Ministry for Foreign Affairs, and there are objections to such a course for the following reasons.

When it was represented to Her Majesty's Government that an apparent injustice was done to a British subject by his dismissal from the Tunisian service by the French authorities, Her Majesty's Ambassador made representations, but has learnt in answer that Mr. Levy has not been dismissed, but has been granted an indemnity, and will be continued in the French service. This being so, any proposal for a modification should more properly come from the party interested, and it would appear more regular, and indeed more to Mr. Levy's interest, that he should himself approach the French authorities with his demand, which is one of mutual convenience, the matter of principle having been apparently decided.

Should the French authorities, after Mr. Levy has intimated to them his wishes, act in a manner not in accordance with the language of the Ministry for Foreign Affairs to Her Majesty's Ambassador, there will then be ground for further intervention in Mr. Levy's behalf.

I am writing in Mr. Levy's interest, for if I reported, after conversation with M. Charmes, that I found no disposition on his part to recommend to the Tunisian authorities the desired modification of the terms offered by him (see Lord Lytton's No. 118 of the 4th March last), this would probably discourage Mr. Levy from making personal efforts to come to a settlement satisfactory to him, but would not necessarily justify further representations from the Embassy.

I have, &c.
(Signed) EDWIN H. EGERTON.

No. 180.

Consul Ricketts to the Marquis of Salisbury.—(Received May 23, 11.45 A.M.)

(Telegraphic.)

Tunis, May 23, 1889, 9.55 A.M.

IN my despatch No. 41 I said that Licari's appeal is finished, he being fined 80 piastres. This is an error; fine was 800.

Consul Ricketts to the Marquis of Salisbury.—(Received May 27.)

(No. 39.)
My Lord,

Tunis, May 17, 1889.

ON the 30th April I communicated to your Lordship the complaint of Vincenzo Spiteri, who had been condemned by the French Tribunal for selling adulterated coffee.

I have now the honour to transmit to your Lordship herewith inclosed copy of the sentence in this case, under which the said Spiteri has been condemned to eight days' imprisonment, a fine of 80 piastres, and confiscation of the coffee seized.

It will be observed—

1. That judgment was given against Vincenzo Spiteri for default, he not having put in an appearance;

2. That, though he did not appear, the sentence states, "Le prévenu a été interrogé," or the accused had been interrogated; and

3. That the accused deceived the purchasers as regards the quality of the coffee sold. As regards the first point, M. Spiteri was recommended by his legal adviser to follow this course, so as to gain time in order that a reply might be received from the chemists at Malta, to whom the sample of coffee had been sent by me for examination.

This sentence has not yet been officially communicated to V. Spiteri. When this has been done his advocate will make opposition to it, and the case will then come on again before the Court. V. Spiteri will put in an appearance, and the analysis from the chemist at Malta will be pleaded in his defence.

Secondly, it is stated that the accused was examined, though how this could have taken place, the accused not having put in an appearance, it is difficult to understand. Some such formality was, perhaps, required in order that a sentence could be framed, but an assertion of this sort contrary to fact was altogether unnecessary.

As regards the third point, nothing is mentioned in the sentence relative to the analysis of the Tunisian experts to prove the assertion that the accused really intended to practise any deceit in the sale of his goods, a matter which, according to the documents forwarded by me to your Lordship in my despatch No. 36 of the 30th April, appears to have been contrary to fact.

It will further be noticed that the sentence is based on the fact of a deception or "tromperie" having been committed by the said V. Spiteri, and yet, according to the amendment to the Decree herewith sent, dated the 9th May, 1889, the words "ou aura trompé, ou tenté de tromper sur la qualité des choses livrées" are held to be an erratum, and should be omitted; hence it would seem that the decision in question is contrary to the Law existing on this subject.

In conclusion, I would beg to draw your Lordship's attention to the circumstance that in all the cases lately reported by me the analysis was made out of Court, and consequently the accused have been debarred from verifying the statements made by the Tunisian officials.

I have, &c.
(Signed) G. T. RICKETTS.

Inclosure 1 in No. 181.

Extrait des Minutes du Greffier du Tribunal Civil de Première Instance de Tunis.

Le 27 Mars, 1889.—Ministère Public c. Spiteri Vincenzo.

L'AN 1889, et le 27 Mars, à l'audience correctionnelle tenue publiquement dans la Salle du Palais de Justice à Tunis; où étant présents: MM. Geffroy, Chevalier de la Légion d'Honneur, Président; Dramard, Juge; Warim, Juge Suppléant; en présence de M. Frolo, Substitut du Procureur de la République, occupant le siège du Ministère Public; avec l'assistance de M. Chânet, Paul, Commis-Greffier; a été rendu le Jugement dont la teneur suit:

Entre le Ministère Public, demandeur par acte de Patel, huissier, à Tunis, en date du 23 Mars, 1889, d'une part; et le nommé Spiteri Vincenzo, sujet Anglo-Maltaise, né en 1835 à Tunis, fils de Sauveur et de Francesca Spiteri, marié, épiciier à Tunis, 25 Rue de l'Eglise. Défaillant, prévenu de falsification de denrées alimentaires, d'autre part.

A l'appel de la cause, M. le Procureur de la République a exposé qu'il avait fait citer

le prévenu à comparaître par-devant le Tribunal à la présente audience pour se défendre en raison de la prévention ci-dessus indiquée; puis le Greffier a donné lecture des procès-verbaux et des pièces du procès; ensuite il a été procédé à l'audition hors la présence les uns des autres des témoins produits; avant de déposer, chaque témoin a fait serment de dire toute la vérité et rien que la vérité, et a dit n'être ni parent ni allié d'aucun des prévenus, ne pas les avoir à son service, et n'être pas au leur; le prévenu a été interrogé, le Greffier a tenu note des déclarations des témoins et des réponses du prévenu; le Ministère Public a résumé l'affaire et a requis l'application des Articles de la loi. Puis le Tribunal, après en avoir délibéré conformément à la loi, a statué en ces termes:

Attendu que quoique régulièrement assigné suivant exploit de Patel, huissier, à Tunis, en date du 23 Mars, 1889, le prévenu ne comparait pas, qu'il échut de donner défaut à son encontre;

Attendu qu'il résulte des débats la preuve que le prévenu s'est rendu coupable d'avoir à Tunis, depuis moins de trois ans, notamment en 1889, trompé les acheteurs sur la nature du café qu'il leur vendait;

Attendu que ce fait constitue le délit prévu et puni par les Articles 400 du Code Pénal, 1 du Décret de 21 Mai, 1888;

Mais attendu qu'il existe dans la cause des circonstances atténuantes en faveur du prévenu, et qu'il y a lieu de le faire bénéficier des dispositions de l'Article 463 du Code Pénal.

Vu le dit Article, ensemble les Articles 52 et 55 du même Code, et 194 du Code d'Instruction Criminelle, et 2 et 9 de la Loi du 22 Juillet, 1867, dont le Président a donné lecture à l'audience, et qui sont ainsi conçus:—

"Article 423 du Code Pénal. Quiconque aura trompé l'acheteur sur le titre des matières d'or ou d'argent, sur la qualité d'une pierre fausse vendue pour fine, sur la nature de toute marchandise; quiconque par usage de faux poids ou de fausses mesures aura trompé sur la quantité des choses vendues sera puni de l'emprisonnement pendant trois mois au moins, un an au plus, et d'une amende qui ne pourra excéder le quart des restitutions et dommages-intérêts, ni être au-dessous de 50 fr."

"Article 1, Loi du 21 Mai, 1888: Quiconque aura falsifié ou altéré des denrées alimentaires ou médicamenteuses destinées à être vendues, aura sciemment vendu ou mis en vente des substances ou denrées alimentaires ou médicamenteuses falsifiées ou corrompues, ou aura trompé ou tenté de tromper sur la qualité des choses livrées, sera puni de l'emprisonnement pendant trois mois au moins, un an au plus, et d'une amende qui ne pourra excéder le quart des restitutions ou dommages-intérêts, ni être au-dessous de 80 piastres. Les objets du délit seront confisqués."

"Article 463. Dans le cas où la peine de l'emprisonnement et celle de l'amende sont prononcées par le Code Pénal, si les circonstances paraissent atténuantes, les Tribunaux Correctionnels sont autorisés, même en cas de récidives, à réduire l'emprisonnement, même au-dessous de six jours, et l'amende, même au-dessous de 16 fr. Ils pourront aussi prononcer l'une ou l'autre ou ces deux peines et même substituer l'amende à la prison, sans qu'en aucun cas elle puisse être au-dessous des peines de simple police."

"Article 52. L'exécution des condamnations à l'amende, aux restitutions, aux dommages-intérêts et aux frais, pourra être poursuivie par la voie de la contrainte par corps."

"Article 194 du Code d'Instruction Criminelle. Tout Jugement de Condamnation rendu contre le prévenu et contre les personnes civilement responsables du délit, ou contre la partie civile, les condamnera aux frais même envers la partie publique; les frais seront liquidés par le même Jugement."

"Article 2 de la Loi du 22 Juillet, 1867. La contrainte par corps est maintenue, en matière criminelle, correctionnelle, et de simple police."

"Article 9. La durée de la contrainte par corps est fixée ainsi qu'il suit: de deux jours à vingt jours lorsque l'amende et les autres condamnations n'excèdent pas 50 fr.; de vingt jours à quarante jours lorsqu'elles sont supérieures au 50 fr. et qu'elles n'excèdent pas 100 fr.; de quarante jours à soixante jours lorsqu'elles sont supérieures à 100 fr., et qu'elles n'excèdent pas 200 fr. De deux mois à quatre mois lorsqu'elles sont supérieures à 200 fr. et qu'elles n'excèdent pas 500 fr.; de quatre mois à huit mois lorsqu'elles sont supérieures à 500 fr. et qu'elles n'excèdent pas 2,000 fr.; d'un an à deux ans lorsqu'elles s'élèvent à plus de 2,000 fr."

Par ces motifs: Le Tribunal donne défaut contre Spiteri Vincenzo, le déclare coupable du délit ci-dessus spécifié, admet en sa faveur le bénéfice des circonstances atténuantes et lui faisant application des dispositions des Articles précités, le condamne à huit jours de prison et 80 piastres d'amende, ordonne la confiscation du café saisi, et par corps envers l'Etat, aux frais du procès liquidé à 5 fr. 25 c.

Fixe au minimum la durée de la contrainte par corps. Ainsi jugé et prononcé en

audience publique, les jours, mois et an que dessus. Et ont les Président et Juges, signé avec le Commis-Greffier.
Signé à la minute.

Le Président,
(Signé) GEFFROY.

Les Juges,
(Signé) P. DRAMARD.
WATRIN.

Le Commis-Greffier,
(Signé) CHAINET.

Pour expédition conforme :
Le Commis-Greffier,
(Signé) CHAINET.

Inclosure 2 in No. 181.

Extract from the "Journal Officiel Tunisien" of May 9, 1889.

ERRATUM.

A L'ARTICLE 1^{er}, § 1^{er}, du Décret du 11 Ramadan, 1305 (11 Mai, 1888), relatif à la fabrication des substances ou denrées alimentaires ou médicamenteuses destinées à être vendues

("Journal Officiel" No. 23, du 7 Juin, 1888)

Supprimer les mots " . . . ou aura trompé, ou tenté de tromper sur la qualité des choses livrées. . . ."
Intercalés par erreur dans le texte.

No. 182.

Consul Ricketts to the Marquis of Salisbury.—(Received May 27.)

(No. 40.)

My Lord,

Tunis, May 20, 1889.

I HAVE the honour to transmit herewith, inclosed to your Lordship, an extract from the "Tunis-Journal" in reference to the entry of a French torpedo-boat at Bizerta.

I have, &c.

(Signed) G. T. RICKETTS.

Inclosure in No. 182.

Extract from the "Tunis-Journal" of May 18, 1889.

BIZERTE.—Le torpilleur No. 37, de la marine Française, est entré Jeudi matin dans le Lac de Bizerte et l'a parcouru.

Ce navire est le premier bâtiment de guerre qui ait évolué dans nos eaux.

No. 183.

Foreign Office to Consul Ricketts.

(No. 39.)

Sir,

Foreign Office, May 31, 1889.

WITH reference to your despatch No. 24 of the 25th March, and to the instruction to Her Majesty's Ambassador at Paris No. 178 of the 16th ultimo, of which you have received a copy, I am directed by his Lordship to acquaint you that Her Majesty's Minister in that capital has replied that, without making inquiry at the Ministry for Foreign Affairs (to which course there are objections), he is unable to state whether Mr. Levy's proposal that he should retire altogether from the French service, receiving a larger indemnity than that now assigned to him, will be acceptable to the French Government. When Mr. Levy's case was brought to the notice of the French Government, it was with the idea that an injustice had been done to a British subject by his summary dismissal from the

No. 182 A.

Consul Ricketts to the Marquis of Salisbury.—(Received May 27.)

(No. 41.)

My Lord,

Tunis, May 20, 1889.

I HAVE been informed by telegraph from Mr. Licari, who went to Algiers on the 15th instant to present himself before the Court of Appeal, that the sentence of the Tribunal in Tunis has been in a great measure annulled, the three brothers Licari having been acquitted altogether, and Mr. Licari himself freed from all punishment except payment of a fine of about 800 piastres. There is some justice in this decision; considering, however, that the analysis was not made under an order of the Court, and was, therefore, altogether *ex parte* and in favour of the Tunisian Government, the accused having had no means of proving his innocence, one is inclined to the opinion that the fine even of 800 piastres was not justified. Be this as it may, the above shows the state of justice as administered at Tunis, and the little necessity there is for the establishment of a Court of Appeal in this province.

I have, &c.

(Signed) G. T. RICKETTS.

No. 182 B.

Foreign Office to the Law Officers of the Crown.

Gentlemen,

Foreign Office, May 30, 1889.

I HAVE the honour to transmit to you, by direction of the Marquis of Salisbury, the inclosed copy of a Decree (and other accompanying papers),* which was published by order of His Highness the Bey of Tunis on the 27th November, 1888, and which purports to confer on the French Tribunals established within the Regency power to hear and decide all suits brought by private individuals against the Administration.

The effect of the Decree in question, in so far as it is binding upon the subjects of foreign Powers, appears to be to compel any such foreigners who may have sustained injuries at the hands of the Beylical Government to personally present their claims before the French Tribunals under restrictions and conditions of a more or less onerous description, and to deprive them of the right, which they have hitherto been admitted to possess under the Capitulations, of having such claims presented and pressed by their own Governments respectively through diplomatic channels.

In so far as the claims and interests of British subjects are concerned, Her Majesty's Government have agreed, since the establishment of the French Protectorate, that the French Resident shall be the channel through which any representations which they may deem it necessary to make shall reach the Bey, but they have in no wise surrendered, on behalf of the subjects of Her Majesty, the privileges which they derive from the Capitulations, and which in no way form part of the extraterritorial jurisdiction in civil and criminal matters formerly possessed by Her Majesty in Tunis, but subsequently transferred by international agreement to the exclusive jurisdiction of the French Tribunals upon the establishment by the French Republic of a Protectorate or Regency over Tunis.

As, therefore, the provisions of this Decree seemed to be entirely unconnected with the arrangement under which British Consular jurisdiction over British subjects was transferred to the French Tribunals, it appeared to Her Majesty's Government, when the measure was first brought to their attention, that it was open to grave doubt whether it could be held obligatory upon foreign Powers without their previous assent.

But at the same time, Her Majesty's Government were alive to the advantages

* List of Papers.

Consul Ricketts ..	..	..	No. 27.	Political	December	1, 1888.
Draft to Lord Lytton ..	..	..	..	No. 17	January	10, 1889.
Lord Lytton ..	..	..	..	No. 122	March	7, "
Correspondence and Convention as to cession of British Consular Jurisdiction in Tunis to the French Tribunals, Confidential No. 4853.						
M. Catalani ..	..	..	..	January	7, "	
Italian Protocol of January 25, 1884, Confidential No. 4991, p. 39 in No. 60.						
Italian Law of March 20, 1865, 8vo., No. 2764, p. 64.						
Order in Council of December 31, 1883, Confidential No. 4905*.						

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which might arise from a system whereby the claims of British subjects against the Tunisian Government might be referred to the French Tribunals, if it could be secured that the procedure were substantially the same as that followed in France with respect to suits against the Government of the Republic, and that the right of appeal were also preserved to the fullest extent allowable in other cases.

It was consequently thought advisable, in the first instance, to procure the opinion of M. Clunet, the well-known French jurist, upon these points, and an exhaustive Report has now been obtained from that gentleman, in which he goes fully into these questions. (See Lord Lytton's No. 122 of the 7th March, 1889, and inclosure.)

It will be seen that M. Clunet considers that the Tunisian Decree is more favourable to a claimant than the French law, but, at the same time, he acknowledges that the latter is iniquitous, and, under these circumstances, it scarcely seems advisable to surrender our diplomatic remedy for a judicial one, which may in its present shape prove insufficient or illusory.

I am specially to call your attention to the various objections urged against the Decree in Consul Ricketts' despatch No. 27 of the 1st December, 1888, and also in the note of the Italian Chargé d'Affaires of the 7th January, 1889, and I am to inquire whether, in your opinion, it may not be advisable for Her Majesty's Government to demur to the measure until at any rate its terms are enlarged so as to confer upon foreign claimants a right of appeal to the highest Appellate Tribunal as full as that provided in the case of suits of a similar nature if brought by one private individual against another, and until the other objectionable features to which attention has been called are removed or modified.

I am accordingly to request that, after taking the papers transmitted herewith into your consideration, you will favour Lord Salisbury with your opinion on these questions, and should you consider the provisions of the Decree objectionable, his Lordship will further be glad to be favoured with your views as to the nature of the modifications or amendments which it may be advisable that Her Majesty's Government should urge upon the attention of the Government of the French Republic.

I am, &c.
(Signed) P. CURRIE.

Tunisian service without sufficient cause. But, as a matter of fact, it has since been established that Mr. Levy has not been so dismissed, and that, although he has been removed from the office which he held, he has been continued in the full salary of that office for eighteen months, with a promise of re-employment.

This arrangement Her Majesty's Government have accepted as satisfactory.

Mr. Egerton considers, therefore, that any proposal for a modification of its terms should more properly be made to the French authorities by the party interested, and Lord Salisbury concurs in the opinion that this course would be more regular and more in Mr. Levy's own interest.

I am accordingly to instruct you to inform Mr. Levy to this effect, and to recommend that he should himself submit to the French authorities any proposal that he thinks they may be likely to entertain.

I am, &c.
(Signed) T. H. SANDERSON.

No. 184.

Consul Ricketts to the Marquis of Salisbury.—(Received June 3.)

(No. 42.)

My Lord,

Tunis, May 20, 1889.

I HAVE the honour to acknowledge the receipt of a despatch No. 34 from Sir P. Currie of the 10th instant, requesting me to furnish information to your Lordship as regards my attitude towards the French Resident in furnishing the Italian Agent, without M. Massicault's knowledge, copies of certain telegrams addressed by one of the Departmental Superiors to Mr. Levy.

Mr. Levy having made known to M. Berio the existence of these documents, M. Berio asked me if he could have a copy of them.

Having received them from Mr. Levy, a British subject, who had brought a complaint against the Tunisian Government, finding M. Berio was in the same position as myself as regards the necessity of protecting his subjects against such unfair treatment as had been manifested towards them, and deeming a common action necessary in such a matter, I thought it would be most unfair to my Italian colleague not to furnish him with the information he desired. I accordingly gave him a copy of the documents in question. One of these, it must be remembered, was a telegram sent by the Inspector of Customs at Susa to Mr. Levy; the other was a letter written him by the Minister of Finance. These documents were not the property of the French Resident—I did not receive them from M. Massicault, and therefore I did not consider them in any way as confidential communications; they belonged to Mr. Levy, who had received them officially, and who had laid his case publicly before me, demanding satisfaction for a wrong done. Under these circumstances, I must say I do not see on what grounds the French Resident can justly raise any complaint against my conduct.

Further, if the course desired by M. Massicault be adopted as a rule, a foreign Agent would, in a great measure, be deprived of his liberty of action, and gradually become subservient to the Resident. The documents herein spoken of were forwarded by me to your Lordship in my despatch No. 24.

I did not communicate in the first instance on this subject with the Resident, (1) because I considered it better to make the circumstances of Mr. Levy's complaint at once known to Her Majesty's Government, and (2) because in dealing with foreign authorities I have invariably found, owing to the ill-defined status of Consuls under the present rules of international law, that when a question is not agreeable to those authorities, the request of the Consul is seldom accorded, and hence unnecessary delay, causing much loss and disadvantage to the complainant. On the other hand, a representation from the Government direct is sometimes listened to, and the object in view more easily accomplished. And after all, what would have been the result had I communicated with the Resident in the first instance? The Government here, or, in other words, M. Massicault—for the Bey takes his instructions from him—directed that a number of foreigners, without any reason, should be dismissed the Bey's service. The Inspector of the Customs of Mehira, in requesting Mr. Levy to change his nationality and become a Frenchman, must have acted solely under the orders of the Resident or the Government in Paris. Is it then likely that any representation of mine would have had the effect of retaining Mr. Levy in his post, and if not, should I not have been merely wasting time in discussing such a question at Tunis?

I am sorry M. Massicault should have thought it necessary to raise a question on so

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small a matter, but as he has done so, I deem it right also to mention that even when I have communicated with the Resident, my letters have not always received the prompt attention which might be given to them. As instances of this I would observe—

1. On the 24th October last I addressed a note to M. Massicault in reference to the Decree of the 17th July, forwarding the substance of your Lordship's despatch No. 16, but no written acknowledgment of this has ever been made.

On the 14th December last I addressed a note to M. Massicault in reference to a complaint brought by the Vice-Consul of Monastir against the authorities of that place in reference to a poll-tax wrongly levied on his interpreter.

No reply having been given to this communication, and having been told to press for an answer by instruction given in your Lordship's despatch No. 2 of the 2nd January, I addressed another note on the same subject on the 22nd January to the Resident, and not only this, but I sent two or three times to M. Regnault, urging something should be done. At last, on the 31st January, I received a reply. This was favourable, it is true, but my letter remained no less than six weeks unanswered.

On the 29th March I wrote to the Acting Resident in reference to the levying of an importation tax on wheat, a matter which appeared to me contrary to the XIVth Article of the Treaty of 1875, but up to the present time no reply has been given.

This breach of Treaty was brought by me to your Lordship's notice in my despatch No. 26 of the 30th March last.

On the 24th March I forwarded to the Resident a copy of your Lordship's despatch No. 15 in reference to the forcible entry of the domicile of a British subject named Licari, but the receipt of this has not even been acknowledged; and, lastly, on the 15th April I wrote to the Resident complaining of the entry of the police in the house of a British subject named Ellul, as reported to your Lordship in my despatch No. 31.

No answer has been as yet given to this, nor has any notification been made to me to show that such acts will be discontinued in future.

I regret being compelled to trespass on your Lordship's time about such trivial affairs, but your Lordship will, I trust, see from what has herein been advanced that the fault, if any, is not altogether on my side.

I have, &c.
(Signed) G. T. RICKETTS.

No. 185.

Consul Ricketts to the Marquis of Salisbury.—(Received June 10.)

(No. 44.)
My Lord,

Tunis, May 23, 1889.

I HAVE the honour to acknowledge the receipt of a despatch No. 35 of the 11th May, signed by Sir P. Currie, transmitting me copies of correspondence in regard to an application made by General Ben Ayad for the assistance of Her Majesty's Government to obtain for him copies of certain documents used in the course of the arbitration proceedings of 1884.

General Ben Ayad having spoken to me about this affair on the 9th February, 1889, I addressed a note to the Resident, copy of which is herewith inclosed; on the 3rd March I received a reply from the Resident, copy of which is also inclosed. The reply having been unfavourable, in the Resident's opinion the Tunisian Government not being called on to give a copy of the papers claimed, the General addressed through his lawyers a note on the subject to your Lordship.

Your Lordship having now instructed me to reply to certain questions, I will endeavour to answer them in the order in which they stand:—

1. "It does not appear whether or not the documents are the property of Ben Ayad."

To ascertain how far the documents in question may or may not belong to the General, it becomes necessary to give an account of how they came into the possession of the Tunisian Government.

It would appear that at the time of the arbitration in 1884, Ben Ayad submitted a number of bills of amounts due to him from the Tunisian Government, signed by Kaïd Memo, the Treasurer of that Government.

That the Arbitrators, Sir A. Dingli and M. de Blignières, thinking some of these debts were due by Kaïd Momo in his private capacity, ordered them to be struck out of the Tunisian Government's account, and, consequently, several considerable sums were not passed to the General's credit.

When the case was finished, Ben Ayad withdrew these bills from the Commissioners, together with other documents, giving them in return a receipt for the same.

On this receipt several of the bills in question are noted in detail. It is a copy of this receipt especially, among other documents, which the General requires for the furtherance of the litigation he has in view. The reason of this is evident from the following circumstance: After the Commissioners had settled that certain amounts claimed against the Tunisian Government ought more properly to be claimed against Kaïd Momo, the said Kaïd Momo was sued before the Court of Corfu by the General for the debts above mentioned.

On this case being heard, Kaïd Momo, in his defence, produced a Contract, copy of which is herewith inclosed, between him and the Agent of the Tunisian Government, showing that a sum of 199,481 piastres, of which Ben Ayad now holds the receipts, was guaranteed to Kaïd Momo in case it was claimed against him by the General. This amount, I find, never appeared among the sums entered in the arbitration, and, consequently, never went to Ben Ayad's credit.

If, then, the General can obtain a copy of these documents, and especially the receipt spoken of, he will, he says, be able to prove that he was thus unlawfully and wilfully deprived of having his claim properly represented to the Commissioners of the Arbitration.

It is clear, then, that the papers herein spoken of belonged as much to Ben Ayad as to the Tunisian Government, and in any way that he had a considerable interest in them. They were given up to Sir A. Dingli, the British Government Arbitrator, who, I believe, consented to their being deposited in the French Consulate, and therefore one cannot see, as this is a case arising out of this arbitration, why the copy of any of these documents should be refused to Ben Ayad or the British Government.

Sir A. Dingli would perhaps be able to throw some light on this matter.

2. It is remarked in the despatch above mentioned that "the proper course for him to adopt will be to serve the persons in whose custody they are, and to apply to the proper Court to enforce their production."

Such would be the line which would be pursued with good result in most countries, but here I feel convinced that if an application went before the French Tribunal, nothing would be able to be effected under a less period than twelve months, nor would these documents be obtainable without an appeal to Algiers. If, also, this claim arises, as before remarked, out of an arbitration in which a British Commissioner took part, and if the papers in question are as much the property of the British Government as they are of the French or Tunisian Government, there would seem to be no rule compelling Ben Ayad now to lay his case before the French Court to enforce the production of papers which he finds necessary for further litigation. Your Lordship can, however, alone decide on such a matter.

3. It is observed, "But the question whether he is legally entitled to the papers or not depends on the law in force in Tunis."

The law in force in Tunis, so far as I am enabled to learn, is French law, and French common law would certainly, I am given to understand (though your Lordship might obtain an opinion on this point), compel the surrender of the documents required.

The following is a list of the documents required by General Ben Ayad:—

1. Certified copy of Ben Ayad's claims and conclusions.
2. Certified copy of the Tunisian Government's claims and conclusions.
3. Copy of a receipt given to M. Ménant, the Secretary of the Arbitral Commission, for documents withdrawn.

I have, &c.
(Signed) G. T. RICKETTS.

Inclosure 1 in No. 185.

Consul Ricketts to M. Massicault.

M. le Ministre,

Tunis, February 9, 1889.

I HAVE the honour to transmit herewith inclosed to your Excellency a Petition from General Ben Ayad, a British-protected subject, requesting to be supplied with copies of certain documents in reference to an arbitration case between him and the Tunisian Government.

Trusting your Excellency will be pleased to allow him to be furnished with these, I have, &c.

(Signed) G. T. RICKETTS.

Inclosure 2 in No. 185.

General Ben Ayad to Consul Ricketts.

M. le Consul,

Tunis, le 9 Février, 1889.

J'AI l'honneur de solliciter de votre bienveillance de vouloir bien faire demander à M. le Secrétaire-Général du Gouvernement Tunisien les copies légalisées des pièces dont la nomenclature suit :—

1. Copie des conclusions prises par mes avocats devant les arbitres dans les différents chefs de mes réclamations et les réponses qu'on y a faites.

2. Copie des reçus délivrés à M. Ménant après l'arbitrage par M. Garsin et par moi contre le retrait de diverses pièces.

Ayant besoin de tous ces documents pour soutenir des procès intentés contre divers. Tunis, le 9 Février, 1889.

Veuillez, &c.
(Signé en Arabe) HAMIDA BEN AYAD.

Inclosure 3 in No. 185.

M. Massicault to Consul Ricketts.

M. le Consul,

Tunis, le 3 Mars, 1889.

J'AI l'honneur de vous faire connaître la réponse du service compétent du Gouvernement Tunisien à la demande du Général Hamida Ben Ayad que vous avez bien voulu me transmettre le 9 Février dernier.

Le Général Ben Ayad désire obtenir, pour les produire en justice, des copies certifiées d'actes assez nombreux de procédure signifiés, à sa requête, au Gouvernement Tunisien, ou que celui-ci lui aurait fait signifier au cours de l'instance qui a abouti au Jugement Arbitral du 5 Mai, 1884. Il demande également copie de reçus délivrés par lui au Secrétaire de la Commission Arbitrale contre le retrait de diverses pièces.

Je vous prie de vouloir bien remarquer, M le Consul, que si les pièces dont les copies sont demandées ont été signifiées à la requête du Général Ben Ayad, c'est lui et non le Gouvernement qui en détient les originaux.

Il est à noter également que les reçus délivrés au Secrétaire de la Commission ne sauraient être en la possession du Gouvernement, mais bien de la Commission.

Enfin, en ce qui concerne les pièces signifiées à la requête du Gouvernement, on ne peut comprendre quelle utilité elles pourraient avoir pour le Général Ben Ayad dans un procès avec des tiers.

Il est de principe, en effet, que les décisions judiciaires, et par conséquent les actes extra-judiciaires qui ont été signifiés dans le cours des instances qui les ont amenées, n'ont de valeur que vis-à-vis des parties en cause.

J'ajouterai en terminant, que le Gouvernement Tunisien, en admettant qu'il détienne encore partie ou l'intégralité des pièces, n'a aucune qualité pour en délivrer copie.

Agréé, &c.
(Signé) J. MASSICAULT.

Inclosure 4 in No. 185.

Contract between Kaïd Momo and the Tunisian Government.

(Translation from the Italian.)

IN the year 1883, and this 25th day of February, in Leghorn, and precisely in the house No. 3, Via Della Costanza, in the dwelling of M. Haim Zeitun, the Secretary of Kaïd Momo Samama:

M. Giacomo Guttierrez having, in the name of His Highness the Bey's Government of Tunis, of whom he is the Representative in Leghorn, through his legal agent, the lawyer, Vincenzo Mugnai, formally asked Kaïd Momo Samama the delivery of all the papers, "theskérés," accounts, and documents regarding the relations existing between the said Kaïd Momo, in his quality of Receiver-General of the Tunisian Government, and General Sy Hamida Ben Ayad, the said Kaïd Momo, adhering to such demand, gave orders to his Secretary, M. Haim Zeitun, to proceed to such delivery.

And wishing to proceed at once in such delivery, the said M. Zeitun has taken out of the iron safe containing the papers above mentioned those hereafter described :—

1. Receipt of Sy Hamida Ben Ayad to Kaïd Momo, dated 23 Moharem, 1284, for 20,500 Tunisian piastres, for value of flour and freight of military provisions sent to Beja.

2. Another, dated 3 Rabi II, 1284, for 500,000 piastres, for value of wheat to be purchased.

3. Another, dated Rabi II, 1284, for 500,000 piastres, for value of wheat to be purchased.

4. Another, dated Jumad, 1284, for 1,125,000 piastres, for purchases to be made of wheat and barley, according to the agreement made.

5. Another, dated 5 Rabi I, 1284, for 16,000 piastres, value in cash.

6. Another, dated 28 Jumad I, 1284, for 10,000 piastres' value, for the purchase of wheat.

7. Another, dated 22 Shaban, 1285, for 26,250 piastres, for the purchase of oil.

8. Another, dated 19 Shaban, 1285, for 87,662½ piastres in copper.

9. Another, dated Rabi II, 1284, for 50,000 piastres, with a note on the back as follows :—

Praise to God.	Value of 300 tons coals, at 75	..	..	..	22,500
In cash	..	..	..	..	2,500
One teskeret charges	..	..	..	..	3,000
					28,000

10. Another, dated Rabi II, 1286, in the form of a promissory note, for 21,000 piastres.
11. Receipt of Hamida Ben Ayad to Shaban El Mokaddem, dated Jumad I, 1283, for 11,000 piastres.

12. Another, to Kaïd Momo, dated 3 Kaada, 1286, for 3,027 piastres, 10 carroubs.

13. A letter of the Minister of the Interior to Mohamed Ben Onis, dated 22 Moharem, 1283, at the end of which there is a declaration of Sy Hamida Ben Ayad, binding himself to give 25,000 piastres in "theskérés" of the Government of His Highness the Bey.

14. A teskeret of the following form :—

"Kaïd Momo Samama remains creditor for balance of "theskére" of Bizerta in 8,208 piastres, written by Hassuna Ben Ayad on the 12th Jumad I, 1287.

The above-described fourteen documents, written in Arabic, have been delivered by M. Haim Zeitun to M. Giacomo Guttierrez, who, by the present, gives a formal receipt to Kaïd Momo Samama in the name of His Highness the Bey's Government of Tunis represented by him. Further, M. Haim Zeitun, in the name of Kaïd Momo Samama, having declared that the latter had delivered on the 18th Jumad II, 1287, to General Sy Hamida Ben Ayad a receipt for 196,530 piastres, 8 carroubs, 15 aspres; and another, of which he does not remember the date, for 2,951 piastres, 8 aspres, requires, in making the delivery of the said promissory notes and receipts of Hamida Ben Ayad, to be guaranteed by the Government towards the said Ben Ayad for the amount of the said two receipts, amounting together to 199,481 piastres, 12 carroubs, 6 aspres, and M. Guttierrez, as Representative, has declared to adhere to such claim, and thus, in the Government's name, guarantees him from all responsibility and consequences for the two receipts above mentioned delivered to Ben Ayad on account of the Government.

The present delivery of a portion of the documents which Kaïd Momo is bound to give to the Government shall be continued as soon as possible.

The present Act is made in three originals for the same effect.

(Signed) G. GUTTIEREZ, N.N.
HAIM ZEITUN.

Witnesses :
(Signed) VINCENZO MUGNAI.
S. COHEN RARA.

No. 186.

M. Saliba to the Marquis of Salisbury.—(Received June 11.)

(Translation.)
My Lord,

Tunis, May 30, 1889.

THE undersigned Angelo Saliba, a British subject, has the honour to make the following statement :—

On the 22nd January, 1886, Aiscia Bent Guider gave him a mortgage on a garden situated in the village of Marsa, in consideration of which he lent her a sum of money which it was expressly stipulated should be repaid within five months.

At the end of this period, as the money was not paid, Saliba applied to the Magistrate at Goletta.

On the 6th July, 1886, he obtained an order from the Magistrate condemning Aiscia to payment.

Having tried every means of inducing her to pay the money, and being unsuccessful, Saliba applied to the Court for the sale of the garden on which he held the mortgage; his request was complied with, and the garden was adjudicated to him by an order dated the 22nd March, 1888.

When, however, he attempted to take possession of the garden, he was prevented by a man in charge, who threatened to kill him if he tried to enter it.

Although he applied to the Magistrate at Goletta and to the Court at Tunis he failed to obtain redress, notwithstanding that he claimed to be put in possession of the garden which the Court itself had made over to him: after spending large sums of money both on the purchase and in fees paid to the lawyer, Camilleri, to the officers of the Court &c., he has hitherto failed to obtain possession of the garden, although he holds the title-deeds and the order of the Court.

In view of the above, he appeals to your Lordship to instruct Her Majesty's Representative in Tunis to make inquiries into the matter, and to examine the title-deeds and the order of the Court, and, should he consider the claim to be well-founded, to take such steps as your Lordship may direct, in order that the Undersigned may be put in possession of the garden and obtain compensation for his losses.

Trusting, &c.
(Signed) ANGELO SALIBA.

No. 187.

Foreign Office to Consul Ricketts.

(No. 40.)

Sir,

Foreign Office, June 14, 1889.

I AM directed by the Marquis of Salisbury to acknowledge the receipt of your despatch No. 42 of the 20th ultimo, replying to the complaints made against you by the French authorities.

It is unnecessary to enter fully into the questions which you have raised in your despatch. The instructions you have now received will have indicated to you the bearing which Her Majesty's Government desire that you should observe upon questions of that kind in the future.

I am, &c.
(Signed) T. H. SANDERSON.

No. 188.

Foreign Office to Consul Ricketts.

(No. 41.)

Sir,

Foreign Office, June 14, 1889.

I AM directed by the Marquis of Salisbury to transmit to you the accompanying translation of a letter from M. Angelo Saliba,* claiming to be a British subject, in which he complains that he is unable to obtain possession of a garden situated in the village of Marsa, on which he holds a mortgage, notwithstanding that the property in question has been adjudicated to him by a legal Decree.

I am to request you to furnish his Lordship with a Report upon the case.

I am, &c.
(Signed) T. H. SANDERSON.

No. 189.

Foreign Office to M. Saliba.

Sir,

Foreign Office, June 14, 1889.

I AM directed by the Marquis of Salisbury to acknowledge the receipt of your letter of the 30th ultimo, complaining that you are unable to obtain possession of a garden situated in the village of Marsa, on which you hold a mortgage, notwithstanding that the

* No. 186.

property in question has been adjudicated to you by a legal decree, and requesting the intervention of Her Majesty's Government in the matter.

I am to acquaint you that Her Majesty's Consul in Tunis has been instructed to furnish a Report upon the case.

I am, &c.
(Signed) T. H. SANDERSON.

No. 190.

Foreign Office to Colonial Office.

Foreign Office, June 24, 1889.

Sir,

I AM directed by the Marquis of Salisbury to transmit to you the accompanying copies of correspondence, as marked in the margin,* in regard to an application made by General Ben Ayad for the assistance of Her Majesty's Government to obtain for him copies of certain documents used in the course of the arbitration proceedings in which he was concerned in 1884, these documents being apparently required for the further prosecution of General Ben Ayad's claims against the Tunisian Government.

The papers in question appear to have been delivered up to Sir A. Dingli, the Arbitrator appointed by Her Majesty's Government, and by his consent deposited in the French Consulate in Tunis; and I am to request that, in laying this letter before Secretary Lord Knutsford, you will move him to cause Sir A. Dingli to be consulted, as Mr. Ricketts suggests, as to whether there is any reason why copies of these papers should not be supplied to General Ben Ayad, for the purposes of his suit, and, if there should be no objection, what are the steps that should be taken to obtain them.

Sir A. Dingli might, at the same time, be asked to be good enough to add such general observations upon the matters involved as his knowledge of the case leads him to think may be of assistance in further dealing with it.

I am, &c.
(Signed) T. H. SANDERSON.

No. 191.

The Law Officers of the Crown to the Marquis of Salisbury.—(Received June 26.)

My Lord,

Royal Courts of Justice, June 25, 1889.

WE were honoured with your Lordship's commands signified in Sir Philip Currie's letter of the 30th ultimo, stating that he was directed by your Lordship to transmit to us the inclosed copy of a Decree (and other accompanying papers) which was published by order of His Highness the Bey of Tunis, on the 27th November, 1888, and which purported to confer on the French Tribunals established within the Regency power to hear and decide all suits brought by private individuals against the Administration.

That the effect of the Decree in question, in so far as it was binding upon the subjects of foreign Powers, appeared to be to compel any such foreigners who might have sustained injuries at the hands of the Beylical Government, to personally present their claims before the French Tribunals under restrictions and conditions of a more or less onerous description, and to deprive them of the right which they had hitherto been admitted to possess under the Capitulations, of having such claims presented and pressed by their own Governments respectively through diplomatic channels.

That in so far as the claims and interests of British subjects were concerned, Her Majesty's Government had agreed, since the establishment of the French Protectorate, that the French Resident should be the channel through which any representations, which they might deem it necessary to make, should reach the Bey, but that they had in nowise surrendered, on behalf of the subjects of Her Majesty, the privileges which they derived from the Capitulations, and which in no way formed part of the ex-territorial jurisdiction in civil and criminal matters formerly possessed by Her Majesty's Government in Tunis, but subsequently transferred by international agreement to the exclusive jurisdiction of the French Tribunals upon the establishment by the French Republic of a Protectorate, or Regency, over Tunis.

That as, therefore, the provisions of the Decree in question seemed to be entirely

* Messrs. Tweedie, April 10; M. Michelland, March 30; Messrs. Tweedie, May 3; to Consul Ricketts, No. 35, May 11; Consul Ricketts, No. 44, May 23, 1889.

unconnected with the arrangement under which British Consular jurisdiction over British subjects was transferred to the French Tribunals, it appeared to Her Majesty's Government, when the measure was first brought to their attention, that it was open to grave doubt whether it could be held obligatory upon foreign Powers without their previous assent.

But that, at the same time, Her Majesty's Government were alive to the advantages which might arise from a system whereby the claims of British subjects against the Tunisian Government might be referred to the French Tribunals, if it could be secured that the procedure were substantially the same as that followed in France with respect to suits against the Government of the Republic, and that the right to appeal were also preserved to the fullest extent allowable in other cases.

That it was consequently thought advisable, in the first instance, to procure the opinion of M. Clunet, the well-known French jurist, upon those points, and that an exhaustive Report had now been obtained from that gentleman, in which he went fully into those questions.

That it would be seen that M. Clunet considered that the Tunisian Decree was more favourable to a claimant than the French law; but that, at the same time, he acknowledged that the latter was iniquitous; and that, under those circumstances, it scarcely seemed advisable to surrender our diplomatic remedy for a judicial one, which, in its present shape, might prove insufficient or illusory.

That Sir Philip Currie was specially to call our attention to the various objections urged against the Decree in Consul Ricketts' despatch No. 27 of the 1st December, 1889; and also in the note of the Italian Chargé d'Affaires of the 7th January, 1889; and that he was to inquire whether, in our opinion, it might not be advisable for Her Majesty's Government to demur to the measure, until, at any rate, its terms were enlarged so as to confer upon foreign claimants a right of appeal to the highest appellate Tribunals as full as that provided in the case of suits of a similar nature, if brought by one private individual against another, and until the other objectionable features to which attention had been called were removed or modified.

That Sir Philip Currie was accordingly to request that, after taking the papers transmitted with his letter into our consideration, we would favour your Lordship with our opinion on the questions submitted therein: and that should we consider the provisions of the Decree objectionable, your Lordship would further be glad to be favoured with our views as to the nature of the modifications and amendments which it might be advisable that Her Majesty's Government should urge upon the attention of the Government of the French Republic.

We have taken the papers into our consideration, and, in obedience to your Lordship's commands, have the honour to

Report—

That, in our opinion, there is no ground for objecting to the Decree of the 27th November, 1888. The only effect of such Decree is to give to persons who have claims against the Administration the means of enforcing those claims by suits before the French Tribunals—a provision which is of advantage to foreigners as well as to the subjects of the Bey. The right of the British Government, as it existed immediately before the making of the Decree,* to protect its subjects by diplomatic action against wrong-doing on the part of the Tunisian Government, is of course unaffected by any such Decree.

We have, &c.
(Signed) RICHARD E. WEBSTER.
EDWARD CLARKE.

List of Papers.

Consul Ricketts	(No. 27)	December 1, 1888.
Draft to Lord Lytton	(No. 17)	January 10, 1889.
Lord Lytton	(No. 122)	March 7, "
Correspondence and Convention as to cession of British Consular Jurisdiction in Tunis to the French Tribunals, Confidential, No. 4853.		
M. Catalani		January 7, "
Italian Protocol of January 25, 1884, Confidential, No. 4991, p. 39 in No. 60.		
Italian Law of March 20, 1865, 8vo., No. 2764, p. 64.		
Order in Council of December 31, 1883, Confidential, No. 4905.		

* Thus amended, December 23, 1889.

No. 192.

Memorandum communicated by M. Catalani, July 1, 1889.

(Translation.)

THE Italian Colony in Tunis has addressed to the King's Government a protest, signed by 1,165 persons, against the manner in which justice is administered in regard to the King's subjects in the Regency.

This circumstance has called the attention of the King's Government to the question of providing for the better defence of the numerous and important interests of Italian subjects in Tunis.

The King's Government intends, therefore, to denounce the Protocol with France of the 25th January, 1884, suspending within the Regency the functions of the Italian Consular Courts, and transferring the jurisdiction exercised by them to the French Courts established under the Law of the 27th March, 1883, promulgated in Tunis by the Bey's Decrees of the 5th May of that year.

In pursuance of instructions received from his Excellency Signor Crispi, the Italian Chargé d'Affaires in London, in communicating the above to his Excellency the Marquis of Salisbury, has the honour to appeal to his Excellency's well-known courtesy, and to ask that he may be informed, if possible without delay, of the view taken by the Queen's Government in regard to this question.

20, Grosvenor Square, June 28, 1889.

No. 193.

Consul Ricketts to the Marquis of Salisbury.—(Received July 2.)

(No. 45.)

My Lord,

Tunis, June 22, 1889.

I HAVE the honour to acknowledge the receipt of your Lordship's despatch No. 36 of the 18th May, instructing me to abstain from interference with the authorities of this place should they consider it necessary to enter the domiciles of British subjects for the purpose of preventing the sale of adulterated goods.

The action taken by me in this matter was based on the instructions which I received in a despatch No. 15 of the 4th February, signed by Sir J. Pauncefoot, and in which it was set forth that neither the Municipality nor the police had the right to enter a British domicile without the consent of the Consular functionary.

For my own part I have never interfered with the police nor with the authorities in this respect, having confined myself merely, after the deed had been committed, to protesting against an infringement of our Treaty rights, as will be seen on a reference to my despatches Nos. 22 and 31.

If the French authorities think it necessary to enter British domiciles for the inspection of articles of food offered for sale, they might, in the first place, either apply to the Consulate, this being in accordance with usages and Treaty rights, and every assistance would be rendered them, or send detectives to obtain by purchase the articles they wish to inspect, as is done in England; thus they would be able to get possession of those things which they say they suspect of being adulterated. In either case there would be no breach of Treaty. Their not taking this course would therefore appear to me an intention on their part of breaking those Treaties which they themselves have engaged to uphold. The Italian Government has, I am given to understand, issued stringent instructions to the Italian Consul-General not to allow any Italian domicile to be entered for the purposes above mentioned without the consent of the Consul. Be this as it may, in future I shall be guided in this respect by the tenor of the instructions furnished me in despatch No. 40, signed by Sir T. V. Lister.

An Italian and Maltese gentleman have now been appointed by the Bey's Government, or rather by the French authorities, as members of the Sanitary Commission spoken of in my despatches No. 20 of the 19th March and No. 9 of the 25th January. This Commission is, I hear, likely soon to commence an inspection of houses, and the Italian and Maltese domiciles will certainly not be forgotten.

The alleged object being here again sanitary, I should feel obliged if your Lordship would allow me to be informed, as regards this matter, whether I am to act up to the

instructions contained in the Foreign Office despatches No. 22 of the 20th February and No. 30 of the 2nd April, or to abstain from all interference as mentioned in Sir T. V. Lister's despatch No. 40.

I have, &c.
(Signed) G. T. RICKETTS.

No. 194.

The Marquis of Salisbury to Mr. Maude.

(No. 117. Confidential.)

Sir,

Foreign Office, July 2, 1889.

THE Austro-Hungarian Ambassador at this Court called at the Foreign Office to-day, and stated confidentially that the Italian Representative in Vienna had informed Count Kálnoky that Signor Crispi intended to denounce the Protocol respecting jurisdiction in Tunis, and had asked his opinion.

Count Kálnoky had replied that the course seemed rather a hazardous one for Italy to take without having first clearly made up her mind as to the objects and results of the step. Above all, his Excellency recommended Signor Crispi to come to an understanding with me on the subject, as it appeared to him that it was for the interest of the Italian Cabinet to make sure beforehand of the support of England in all Mediterranean questions which might bring on a conflict with France.

Count Kálnoky asked Count Nigra what Signor Crispi intended to do if, after he had denounced the Protocol, France refused to recognize the Capitulations for the Italian Consul, and if he thought that by the recall of the latter he would have attained his object, or if it did not rather appear that he would have made the situation worse than before.

Count Deym was instructed to ask if the same communication had been made to me, and what answer I had given.

I replied that M. Catalani had made a similar communication yesterday evening, but that no answer had yet been returned to him.

I am, &c.
(Signed) SALISBURY.

No. 195.

The Marquis of Salisbury to M. Catalani.

M. le Chargé d'Affaires,

Foreign Office, July 4, 1889.

I HAVE carefully considered your communication of the 1st instant, stating that, in view of the treatment of Italian subjects by the Tribunals in Tunis, your Government had decided to denounce the Protocol of the 25th January, 1884, by which they agreed to suspend the functions of the Italian Consular Courts, and to transfer their jurisdiction to the French Courts established in the Regency by the Bey's Decrees of the 5th May, 1883.

You also requested to be informed of the view taken by Her Majesty's Government in regard to this question.

I have the honour to inform you that Her Majesty's Government have received some representations as to alleged irregularities in the administration of justice in Tunis, but that those which have been sufficiently established do not seem to be of great importance. No complaints have reached Her Majesty's Government from any considerable body of British subjects in Tunis, such as those which have been received by Signor Crispi. As his Excellency has asked for an expression of my opinion, I would suggest, for his consideration, that it might be advisable to bring any specific complaints before the French Government, and to delay the action contemplated until there has been time for the French Government to give any explanations, if, on their attention being drawn to the subject, it seemed to them desirable to do so.

I have, &c.
(Signed) SALISBURY.

No. 196.

The Marquis of Salisbury to Count Deym.

(Confidential.)

M. l'Ambassadeur,

Foreign Office, July 4, 1889.

WITH reference to the inquiry which your Excellency made at this Office on the 2nd instant, I have the honour to acquaint you that I received a communication a few days ago from the Italian Chargé d'Affaires as to the intention of the Italian Government to denounce the Tunis Protocol of the 25th January, 1884, and asking for an expression of my views.

I have informed M. Catalani, in reply, that, though Her Majesty's Government have received some representations as to alleged irregularities in the administration of justice in Tunis, no complaints have reached them from any considerable body of British residents, such as those which have been received by Signor Crispi.

I have, therefore, suggested, for Signor Crispi's consideration, the advisability of bringing some specific complaints before the French Government, and of delaying the action contemplated until there has been time for the French Government to give any explanations, if, on their attention being drawn to the subject, it seemed to them desirable to do so.

I have, &c.
(Signed) SALISBURY.

No. 197.

Acting Consul Carbonaro to the Marquis of Salisbury.—(Received July 8.)

(No. 47.)

My Lord,

Tunis, July 4, 1889.

WITH reference to Consul Ricketts' despatch No. 43 of the 22nd May, 1889, I have the honour to transmit herewith, inclosed to your Lordship, copy of the Sentence of the Court of Appeal at Algiers against Giuseppe Licari, inserted in the "Journal Officiel Tunisien" of the 27th ultimo.

I have, &c.
(Signed) G. CARBONARO.

Inclosure in No. 197.

Sentence of the Court of Appeal at Algiers against Giuseppe Licari.

COUR D'APPEL D'ALGER. — L'an 1889, et le 18 Mai, dans la cause entre le Ministère Public intimé et le nommé :

Licari, Giuseppe, fils de Carmelo Gioacchino di Felice, âgé de 30 ans, né en 1859, à Malte, liquoriste, demeurant à Tunis, Rue d'Espagne, No. 12, ayant interjeté appel de cinq Jugements rendus le 6 Mars par le Tribunal Correctionnel de Tunis, et le condamnant pour délit de tromperie sur la qualité de la chose vendue, falsification de substances alimentaires, et vente de substances alimentaires falsifiées ;

La Cour d'Appel d'Alger, Chambre des Appels de Police Correctionnelle, a rendu un Arrêt dont le dispositif est ainsi conçu :

Confirme en ce qui concerne Giuseppe Licari sur la déclaration de culpabilité, les cinq Jugements déferés ;

Émettant les dites décisions quant aux peines d'emprisonnement et d'amendes prononcées ainsi que, quant à l'affichage et aux insertions ordonnées ;

Décharge Giuseppe Licari de la peine d'emprisonnement ;

Elève à 800 piastres le chiffre de l'amende unique à laquelle, par application de l'Article 365, § 2, du Code d'Instruction Criminelle, il est ordonné ;

Dit que le dispositif seul du présent Arrêt dans sa partie relative à Giuseppe Licari sera l'objet de l'affichage et des insertions prescrites par les premiers Juges.

Confirme, sous ces modifications à l'encontre de Giuseppe Licari, les cinq Jugements déferés, et notamment la destruction des liqueurs falsifiées saisies.
 Condamne ce dernier aux frais envers l'État liquidés à 89 fr. 45 c.
 Fixe à vingt jours la durée de la contrainte par corps.
 (Pour extrait certifié conforme à l'expédition transmise par M. le Procureur-Général),
 Le Procureur de la République à Tunis,
 (Signé) HERBAUX.
 Algiers, le 18 Mai, 1889.

No. 198.

Baron Viani to the Marquis of Salisbury.—(Received July 8.)

My Lord,

9, Rue El-Cachek, Tunis, July 2, 1889.

I BEG to ask your kind attention on a very unjust Judgment of the Court of Appeal in Tunis, pronounced against me after the Gas and Water Company's pursuits; for a drop of water allowed to my house during six months, they were about, as empowered by the said Court, to sell by auction the house itself while I was absent from Tunis. But a rather more enormous injustice is to be noticed in the fact that the Company first asked 532 piastres, and, as I refused to pay, this sum being exaggerated, they stopped immediately the water tubes, and deprived me, since that time, of this necessary and hygienic benefit. They left pass seven or eight months, and suited me for the payment of a sum much superior to the one first asked; they demanded my condemnation to pay 1,081½ piastres.

However, this murderous behaviour has been clearly demonstrated before the Judges by the barrister on my part; the said Judges, declining to approve any of my pressing reasons, condemned me to pay the sum demanded, with costs, these amounting to 214 fr. 45 c., so I was obliged to pay. I have been assured that in this and in many other similar cases, the said Court received orders by the Resident Minister as to the way they were to decide.

(Signed) Baron TESTAFERRATA VIANI,
 British Subject.

No. 199.

War Office to Foreign Office.—(Received July 10.)

(Confidential.)

THE Director of Military Intelligence presents his compliments to the Under-Secretary of State for Foreign Affairs, and begs to forward a note by an officer of the Intelligence Department who has just returned from a visit to Algeria and Tunis.

All the places named in the note were visited twice, with an interval between the visits.

18, Queen Anne's Gate, S.W.
 July 9, 1889.

Inclosure in No. 199.

Memorandum.

(Confidential.)

D. M. I.,

I BEG to report my return from a visit to Algeria and Tunis.

At all the coast towns of Algeria which I visited, namely, Algiers, Dellys, Bougie, Collo, Philippeville, and Bone, new coast batteries for heavy guns are being erected, and the older works of defence are being rearmed. New semaphore stations have also been built at various points along the coast.

In Tunis the new commercial harbours at Golletta and Bizerta are being pro-

ceeded with, but no coast defence works are being built at either place. At Bizerta, however, information I received on the spot, and various indications, lead to the conclusion that at an early date, possibly at the end of the year, the construction of a military port will be undertaken. Money for the purpose, to the extent of 62,000,000 fr., I was informed, would be provided from the revenues of Tunis.

I hope shortly to furnish a detailed Report of my observations.

(Signed) G. A. K. WISELY, Captain,
 R.E., D.A.A.G.

Intelligence Division, July 9, 1889.

No. 200.

Sir A. Paget to the Marquis of Salisbury.—(Received July 12.)

(No. 202.)

My Lord,

Vienna, July 10, 1889.

THE question lately raised by the Italian Government respecting a return to the Capitulations in Tunis having been referred to in my conversation with Count Kálnoky yesterday, I informed his Excellency that your Lordship took the same view of this subject as himself, namely, that there was no reason for disturbing existing arrangements.

His Excellency said he had heard, with pleasure, the same thing from Count Deym; and the Austrian Ambassador at Berlin had also reported that such was likewise the opinion of the German Government.

Under these circumstances Count Kálnoky said he expected the Italian Government would allow the matter to drop.

I have, &c.
 (Signed) A. PAGET.

No. 201.

Foreign Office to Consul Ricketts.

(No. 42.)

Sir,

Foreign Office, July 12, 1889.

WITH reference to your despatch No. 45 of the 22nd ultimo, in regard to your attitude in cases where the Tunisian authorities consider it necessary to enter the domicile of British subjects for the purpose of preventing the sale of adulterated goods, I am directed to state that Lord Salisbury can only refer you to the directions that were given you in my despatch No. 36 of the 18th May and Sir V. Lister's despatch No. 40 of the 14th ultimo.

I am, &c.
 (Signed) P. CURRIE.

No. 202.

Foreign Office to Baron Viani.

Sir,

Foreign Office, July 13, 1889.

I AM directed by the Marquis of Salisbury to acknowledge the receipt of your letter of the 2nd instant, complaining of the Judgment pronounced against you by the Court of Appeal in Tunis at the suit of the Gas and Water Company in that city.

I am to state to you, in reply, that Her Majesty's Government cannot interfere with the decision of the French Tribunal by which your case has been tried.

I am, &c.
 (Signed) P. CURRIE.

The Law Officers of the Crown to the Marquis of Salisbury.—(Received July 15.)

Royal Courts of Justice, July 11, 1889.

My Lord,

WE were honoured with your Lordship's commands signified in Sir T. H. Sanderson's letter of the 18th May last, stating that he was directed by your Lordship to transmit to us the papers noted in the accompanying list* with reference to two cases recently brought to the attention of your Lordship by Her Majesty's Consul at Tunis, in which it was alleged that the domiciles of British subjects, named respectively Licari and Ellul, had been illegally violated.

That the facts of both cases were very similar, and that, as the considerations of law arising in either case appeared to be practically identical, it had been thought well to endeavour to present the cases together in the summary which followed, viz.:—

That on the 16th December, 1888, the premises of Mr. G. Licari, a British subject, proprietor of a liquor manufactory at Tunis, were entered by the Tunisian police, under the orders of an Inspector of the Sanitary Board, appointed by the Municipal Council, and that some 2,000 bottles of liquor and other articles were seized and placed under seal. That that step was taken in consequence of samples of his goods, which had previously been taken by an Inspector, having been declared unfit for consumption on being subjected to analysis by French experts.

That in reporting that case to the Foreign Office, Mr. Ricketts stated that the Tunisian authorities based their proceedings on the Municipal Decree of the 15th July, 1888, regulating the sale of liquors, and on the XVIIth Article of the Treaty of 1875, by which it was provided that "manufactories (of British subjects) and their appurtenances, being immovable property, shall be subject to the provisions of the Convention of the 10th October, 1863, relative to the permission granted to British subjects to hold real property in the Regency of Tunis."

That Mr. Ricketts further suggested that, although that line of argument might perhaps have been admitted, had the act complained of proceeded in the first instance under an order of the French Tribunals, Mr. Licari's premises had, in fact, been entered under no higher authority than that of an agent appointed by the Municipal Council, and without the previous knowledge and sanction of Her Majesty's Consul-General. (Mr. Ricketts No. 32 of the 24th December, 1888.)

That in the following January, Mr. Ricketts reported (No. 9 of the 25th January, 1889) that the Bey had, on the 3rd of that month, issued a Decree establishing a Sanitary Commission, with the French Consul as President.

That in reply to his inquiries with regard to the Commission, Mr. Ricketts was informed (to Mr. Ricketts No. 22 of the 22nd February, 1889) that Her Majesty's Government had no objection to the transfer to that body of the functions hitherto exercised by the Municipality relative to sanitary business.

That as regarded, however, the enforcement of any sanitary Regulations, Her Majesty's Government held that the French Tribunals had alone power to execute process on foreigners, and that, therefore, the dwelling of a British subject could not be forcibly entered by order of the Sanitary Commission alone.

That Mr. Ricketts was subsequently instructed to act in conformity with those views, but to make no protest unless a violation of a British domicile should take place, by its being entered without his consent by Tunisian officials acting without any further authority than the orders of the Sanitary Commission.

That meanwhile, on the 4th February, Mr. Ricketts had been informed (No. 15 of the 4th February, 1889), in reply to his despatch No. 32 respecting the Licari case, that the French Tribunals were entitled to issue process to be executed on foreigners and their residences in all matters which came within the civil or criminal jurisdiction of those Tribunals, but that the matter in question, not having been brought before them, was a case of process issued by the native Municipality alone, and in violation of immunities secured to British subjects by Treaty.

That he was, therefore, instructed to make a representation to that effect to the French Resident.

* *List of Papers*:—1. Treaty of October 10, 1863, relative to the holding of real property by British subjects in Tunis (Treaty No. 474); 2. Convention with Tunis of July 19, 1875 (Treaty No. 586); 3. Order in Council of December 31, 1883, abolishing British Consular jurisdiction in Tunis (Confidential No. 4905*); 4. Municipal Decree of July 15, 1888, regulating the sale of liquors in Tunis; 5. Consul Ricketts, No. 32, December 24, 1888; 6. Ditto, No. 9, January 25; 7. To ditto, No. 15, February 4; 8. To ditto, No. 22, February 22; 9. Consul Ricketts, No. 21, March 19; 10. Ditto, No. 22, March 25; 11. Ditto (Telegraphic), April 3; 12. Ditto, No. 30, April 11; 13. Ditto, No. 31, April 15; 14. Ditto, No. 34, April 22; 15. Memorandum communicated by M. Jussereaud, May 6, 1889; Consul Ricketts, No. 47, July 4, 1889.

That in March, Mr. Ricketts reported (No. 21 of the 19th March and No. 22 of the 22nd March) that the case had been submitted by the Municipality to the French Courts, and that Mr. Licari had been condemned by them to fine, imprisonment, and forfeiture of his goods.

That copies of the Judgement against Guiseppe and Emmanuelle Licari, and also of that against Francesco and Baldessare Licari, were forwarded to the Foreign Office by Mr. Ricketts in his despatches No. 30 of the 11th April and No. 34 of the 22nd April, 1889, which were transmitted to us.

That on the 25th March, Mr. Ricketts made the representation to the French Resident which he had been instructed to make respecting that case by the Foreign Office despatch No. 15 of the 4th February, 1889 (Mr. Ricketts' telegram of the 3rd April, 1889).

That in April Mr. Ricketts reported (No. 31 of the 15th April, 1889) that the premises of Mr. A. Ellul, a butter merchant, had been entered by the police under the orders of Delegates from the Municipality for the enforcement of sanitary measures, without any judicial process having been instituted against Mr. Ellul and without the previous consent of Her Majesty's Consul-General having been obtained.

That in the note which Mr. Ricketts addressed to the French Resident protesting against those proceedings, he seemed to have based his remonstrances on the fact, that samples of Mr. Ellul's goods had been taken away contrary to his wish, and that such a proceeding on the part of the Tunisian authorities amounted to a violation of the XXIIIrd Article of the Treaty of 1875, which stipulated that no British subject "shall be compelled to sell anything to a Tunisian against his free will."

That a Memorandum, which was in the nature of a reply to the representation made by Mr. Ricketts on the 25th March, was communicated to the Foreign Office on the 6th May by the French Chargé d'Affaires.

That the Memorandum reviewed the Licari and Ellul cases from the French point of view, and maintained that the action of the Municipal officers was authorized by French law, and did not require the previous sanction of the British Consul.

That Sir Thomas Sanderson was to request that we would take the papers transmitted with his letter into our consideration, and that we would favour your Lordship with our opinion as to whether the action of the Tunisian authorities in either or both of the cases in question constituted a violation, and, if so, in what respects, of the existing Treaty rights of British subjects, and that he was to add that your Lordship would be glad, at the same time, to be favoured with any general observations which we might have to offer on the case.

We were also honoured with a Memorandum from Sir Philip Currie, dated the 30th May, covering two further despatches from Her Majesty's Consul at Tunis on the same subject.

We have taken the matter into our consideration, and, in obedience to your Lordship's commands, have the honour to

Report—

That we gather from the papers before us that the acts of the Tunisian authorities which form the subject of complaint were performed by the "police judiciaire" authorized by the French Tribunals to act in execution of the Tunisian laws and the French Code of Criminal Procedure, and that the officers were responsible to the French Tribunals, which have adjudicated upon the whole matter, and before which no question appears to have been raised as to the irregularity of the proceedings.

Under these circumstances, the acts complained of do not, in our opinion, constitute a violation of the Treaty rights of British subjects.

Under the Conventions of 1863 and 1875, there is no provision which would exempt the dwellings of British subjects from liability to the process prescribed by the Municipal law. If the Protocol of July 1868 is to be regarded as in force in Tunis the case would no doubt be different, but, having regard to the dates and language of the Conventions of 1863 and 1875, we doubt whether reliance can safely be placed upon that Protocol so far as this case is concerned.

We have, &c.

(Signed)

RICHARD E. WEBSTER.
EDWARD CLARKE.

Messrs. Tweedie to Foreign Office.—(Received July 16.)

Sir,
5, *Lincoln's Inn Fields, London, July 15, 1889.*
WITH reference to the affairs of our client, General Ben Ayad, of Tunis, and our interview of this morning at the Foreign Office, we beg to inquire whether any decision has yet been arrived at upon the Report of Her Britannic Majesty's Consul at Tunis, which has, we understand, been sent home, in reference to the above.
Our client has written us desiring us to represent to Her Majesty's Foreign Office how important and urgent the matter is for him, and we therefore venture to ask you for information of what has happened since your letter to us of the 11th May last.

We are, &c.
(Signed) A. F. AND R. W. TWEEDIE.

Acting Consul Carbonaro to the Marquis of Salisbury.—(Received July 18.)

(No. 48.)
My Lord,
Tunis, July 10, 1889.
WITH reference to Sir T. V. Lister's despatch No. 41 of the 14th June, 1889, requesting a Report on the case of Mr. Angelo Saliba, a Maltese British subject, who complains that he is unable to obtain possession of a garden situated in the village of Marsa, I have the honour to inform your Lordship that, in July, 1886, Mr. Saliba obtained a Judgment of the French Tribunal against Guider Baccouche, a Tunisian subject, for a certain sum of money which he had lent him on security, consisting in a title-deed representing a garden at Marsa.

In consequence of this Judgment Mr. Saliba applied to the French Tribunal for the sale by public auction of the garden above mentioned, which he obtained, and when the sale took place he himself made the highest offer, and the garden was adjudicated to him on the 22nd March, 1888.

Mr. Saliba then went to Marsa to take possession of the garden, but a Tunisian, who had charge of the same, said it belonged to Prince Sy Tayeb Bey, and refused to let him in.

In 1887, when the Compagnie Algérienne seized all the property belonging to the Prince, and included this garden, the French Tribunal pronounced sentence against the seizure of this garden, it being the property of Guider Baccouche, and not of the Prince Sy Tayeb Bey.

The course left for Mr. Angelo Saliba to adopt in order to obtain possession of the garden is to summon Sy Tayeb Bey before the Tribunal of the Sharâa. But will this Tribunal consider Mr. Saliba as the owner of the garden when the title-deed has not been duly transferred to him and signed by two Tunisian notaries, and when the "carouba" tax of 6½ per cent. has not been paid? Article I of the Treaty of 1863 says:—

"It being henceforward lawful for British subjects to purchase and possess immovable property, the Ecclesiastical and other legal Courts and authorities shall be empowered, upon the application of the purchaser, to proceed to the verification of the title-deeds, and to transfer the same in his name, according to the usages of the country, in order to give them the validity required by law;" and Article II:—

"British subjects possessing immovable property shall pay the same municipal and fiscal taxes which are paid by natives."

I have, &c.
(Signed) G. CARBONARO.

Foreign Office to Colonial Office.

Sir,
Foreign Office, July 19, 1889.
WITH reference to the letter from this Office of the 24th ultimo, I am directed by the Marquis of Salisbury to acquaint you that a further communication has been

received from Messrs. Tweedie, pressing for a decision in regard to General Ben Ayad's application for certain papers, and I am to request that you will move Secretary Lord Knutsford to cause Sir A. Dingli to be asked to reply by telegraph to the questions submitted to him in connection with the matter.

I am, &c.
(Signed) P. CURRIE.

Foreign Office to Messrs. Tweedie.

Gentlemen,
Foreign Office, July 19, 1889.
I AM directed by the Marquis of Salisbury to acknowledge the receipt of your letter of the 15th instant, inquiring whether any decision has yet been arrived at in regard to your application on behalf of General Ben Ayad for copies of certain papers.

I am to state to you, in reply, that the matter is still under consideration, but his Lordship hopes to be in a position to communicate to you his decision at an early date.

I am, &c.
(Signed) P. CURRIE.

Acting Consul Carbonaro to the Marquis of Salisbury.—(Received July 22.)

(No. 49.)
My Lord,
Tunis, July 17, 1889.
I HAVE the honour to report the departure on the 15th instant of the French Minister Resident, M. Massicault, Sy Tayeb Bey, and several other members of the Royal family for France.

I have, &c.
(Signed) G. CARBONARO.

Colonial Office to Foreign Office.—(Received July 23.)

Sir,
Downing Street, July 23, 1889.
I AM directed by the Secretary of State for the Colonies to transmit to you, for the information of the Marquis of Salisbury, with reference to the letter from your Department of the 19th instant, a copy of a telegram from Governor Sir H. Torrens, dated the 21st instant, on the subject of General Ben Ayad's claim.

I am, &c.
(Signed) ROBERT G. W. HERBERT.

Inclosure in No. 209.

Sir H. Torrens to Lord Knutsford.

(Telegraphic.)
Malta, July 21, 1889.
IN answer to your telegram of yesterday evening, Dingli's legal opinion favourably reports on claims in confidential despatch 1st July; cannot finish until arrival of report from Consulate; will give definite answer as soon as possible.

No. 210.

Acting Consul Carbonaro to the Marquis of Salisbury.—(Received July 25.)

(No. 50.)

My Lord,

Tunis, July 17, 1889.

I HAVE the honour to forward to your Lordship a book entitled "Les Odeurs de Tunis," which may be interesting, as it has been written by M. Pontois, late President of the French Tribunal at this place. The cases of the Enfida and General Hamida Ben Ayed are therein mentioned.

I have, &c.
(Signed) G. CARBONARO.

No. 211.

The Marquis of Salisbury to the Earl of Lytton.

(No. 319.)

My Lord,

Foreign Office, July 25, 1889.

I TRANSMIT to your Excellency herewith the accompanying papers, as marked in the inclosed list,* relative to the question of jurisdiction in matters affecting real property belonging to British subjects in Tunis.

I have to request that your Excellency will communicate these papers to M. Clunet, and ask that gentleman to favour you with his opinion as to the bearing of the Decree of the President of the French Republic of the 17th July, 1888.

M. Clunet will perceive from a perusal of the inclosed papers that Her Majesty's Government have raised objections to the Decree above referred to, on the grounds that it would withdraw all suits respecting real estate from the jurisdiction of the French Tribunals, and would place cases in which British subjects might be interested entirely within the jurisdiction of the Bey of Tunis.

The French Government maintain that the Decree would not have its effect, as it had solely for object the establishment of a registry of titles to land.

I would be glad, however, to be furnished with M. Clunet's opinion as to the force of the objections raised by Her Majesty's Government, as well as with any remarks which he may have to offer on the Decree itself, as viewed from the British standpoint.

I am, &c.
(Signed) SALISBURY.

No. 212.

Foreign Office to Acting Consul Carbonaro.

(No. 43.)

Sir,

Foreign Office, July 26, 1889.

I AM directed by the Marquis of Salisbury to acknowledge the receipt of your despatch No. 48 of the 10th instant, and to inform you that he concurs in your suggestion as to the course which Mr. A. Saliba should follow in order to obtain possession of the garden situated in the village of Marsa, on which he holds a mortgage.

You should report the result of any action which Mr. Saliba may take in the matter.

I am, &c.
(Signed) P. CURRIE.

No. 213.

Foreign Office to Acting Consul Carbonaro.

(No. 45.)

Sir,

Foreign Office, August 2, 1889.

I INFORMED you in my despatch No. 36 of the 18th May that the questions raised by Mr. Consul Ricketts relative to the complaints of Messrs. Licari, Ellul, and Cassar had been referred to the Law Officers of the Crown.

* Not printed.

His Lordship has now been advised that the acts of the Tunisian authorities, which form the subject of complaint, were performed by the "Police Judiciaire," authorized by the French Tribunals to act in execution of the Tunisian Laws and the French Code of Criminal Procedure, and that the officers were responsible to the French Tribunals which have adjudicated upon the whole matter, and before which no question appears to have been raised as to the irregularity of the proceedings.

Under these circumstances, it appears to Lord Salisbury that the acts complained of do not constitute a violation of the Treaty rights of British subjects.

I am, &c.
(Signed) P. CURRIE.

No. 214.

Colonial Office to Foreign Office.—(Received August 8.)

Sir,

Downing Street, August 7, 1889.

WITH reference to the letter from this Department of the 2nd instant, and previous correspondence, I am directed by Lord Knutsford to transmit to you, for the information of the Marquis of Salisbury, a copy of a despatch from the Governor of Malta, inclosing a Memorandum (in original) by Sir A. Dingli, on the subject of General Ben Ayad's claims against the Tunisian Government.

I am, &c.
(Signed) EDWARD WINGFIELD.

Inclosure 1 in No. 214.

Governor Sir H. Torrens to Lord Knutsford.

(Confidential.)

My Lord,

Palace, Valletta, August 1, 1889.

ADVERTING to your Lordship's Confidential despatch of the 1st, and to your telegram of the 20th ultimo, on the subject of information required by the Foreign Office as to General Ben Ayad's claims against the Tunisian Government, I have the honour to forward a Memorandum by Sir Adrian Dingli on the points referred to in the Foreign Office letter, a copy of which was inclosed in your Lordship's despatch under reply.

I have, &c.
(Signed) H. TORRENS.

Inclosure 2 in No. 214.

Memorandum.

(Confidential.)

ON the 9th instant I had the honour to receive, confidentially, from his Excellency the Governor of this island, the following papers:—

A copy of a Confidential despatch from the Secretary of State for the Colonies, dated the 1st instant, requesting his Excellency to obtain my opinion on the points referred to in a letter from the Foreign Office, on the subject of some claims of General Ben Ayad against the Tunisian Government, and a copy of the said letter to the Foreign Office dated the 24th June last, covering printed copies of a correspondence marked in the margin of that letter respecting an application made by or in behalf of General Ben Ayad, for the assistance of Her Majesty's Government to obtain for him from the French Consulate at Tunis, copies of certain documents used in the course of the Arbitration proceedings in which he was concerned in 1884; requesting, as suggested by Mr. Ricketts, Her Majesty's Consul in that Regency, my opinion (1) as to whether there is any reason why copies of those documents should not be supplied to General Ben Ayad for the purposes of his claims against the Tunisian Government? and (2) if there be no objection, what are the steps that should be taken to obtain them? and concluding with another request for any general observations upon the matters involved as my knowledge of the case leads me to think may be of assistance in further dealing with it.

2. I regret that circumstances beyond my control prevented my immediate

compliance with the desire of the Marquis of Salisbury and Lord Knutsford. I was at the time engaged in the preparation of important Judgments to be delivered on a fixed day by the Court in which I have the honour to preside; and afterwards I had to wait for a copy from the British Consul in Tunis of the Award of 1884, to ascertain some particulars on which I felt I should not trust my unaided memory.

3. Now before replying to the questions put in the quoted letter from the Foreign Office, I beg to rectify the statements in Mr. Ricketts' letter of the 23rd May last that papers were, by General Ben Ayad, given up to me as the British Government Arbitrator, and, by my consent, deposited in the French Consulate; and another statement in M. Michellad's letter to the Marquis of Salisbury, dated the 3rd April, where General Ben Ayad is reported as saying that I was "*nommé par le Gouvernement de Sa Majesté Britannique pour défendre mes intérêts et ceux d'autres sujets Britanniques.*"

4. As to the first of these statements, I must say that no papers were by, or in behalf of, General Ben Ayad given up to me at any time. With the exception of a pamphlet, entitled "*Mémoire à l'Appui des Réclamations de Si Ahmida Ben Ayad contre le Gouvernement Tunisien.*" which I received in Malta, from the Foreign Office, at the time of my appointment as one of the Arbitrators, and a written statement of the "*Contre-Réclamations*" of the Tunisian Government, which was sent to me in Tunis before the commencement of the Arbitration proceedings, through, as far as I remember, the late Mr. Reade, then the British Consul-General; all the papers that I saw relating to the case were by the parties themselves, or their representatives, either laid directly before the Arbitrators at their sittings during the hearing of the case or delivered to M. Menant, as the Secretary to the Arbitral Commission, and by him submitted to that Commission. In the course of the proceedings all those papers were by that gentleman collected, and divided into separate "*dossiers*," each containing the documents respecting some particular claim. But Mr. Ricketts' information was perfectly correct, in so far that all those papers were, with my consent or acquiescence, at the last sitting of the Arbitral Commission, left in M. Menant's hands, to be deposited in the French Consulate.

5. As to the statement in M. Michellad's letter, if it is meant to convey that I was appointed particularly to defend General Ben Ayad's interests, it is inaccurate, inasmuch as M. de Blignières and I, from the moment we opened the proceedings, ceased to be the French and the British Arbitrators; we formed an Arbitral Commission, sitting as a Tribunal to do justice between the parties according to law, to the best of our abilities, unbiassed either by the origin of our appointments, or by the nationality of the parties, and on the evidence which they placed before us. The persons who were appointed to defend General Ben Ayad were originally two advocates named by himself, M. Pelletier and M. Bersassons, and when those gentlemen, for reasons to which it is unnecessary here to refer, withdrew from the case, another advocate, M. Boday.

6. I proceed now to reply to the first question: Whether there is any reason why copies of the documents asked for by General Ben Ayad for the purposes of his claims against the Tunisian Government should not be supplied to him, such papers being (as appears from Mr. Ricketts' letter of the 23rd May, M. Michellad's letter of the 30th March, and Messrs. A. F. and R. W. Tweedie of the 3rd May)—

(1.) A certified copy of Ben Ayad's claims and conclusions submitted to the Arbitrators.

(2.) A certified copy of the claims and conclusions of the Tunisian Government.

(3.) A copy of a receipt given to M. Menant, the Secretary to the Arbitral Commission, by General Ben Ayad for documents which were returned to him, such documents being, in that receipt, noted in detail.

7. All the papers connected with the proceedings were, from the moment of their production, placed entirely under the control of the Arbitrators, from whom neither party had any right, except under extraordinary circumstances, which in the present instance do not exist, to demand restitution. The Arbitrators were to see to their preservation in the interest of the parties concerned, at least as long as their importance should not have entirely ceased, and for that purpose, on the termination of their business, they placed them in a public office unconnected with either the Tunisian Government or General Ben Ayad, namely, the French Consulate. It would have been an act of serious discourtesy on my part to propose for the deposit of those papers the British Consulate, and my then colleague, M. de Blignières, would, in all probability, have objected to the proposal. For, in the absence of any person in the British Consular office known to be fit for the duties of Secretary to the Commission, whose proceedings were to be conducted in the French language, and no other person

having been suggested to me by the British Consul, from outside both Consulates we, the Arbitrators, accepted the offer made of the services of M. Menant, a clerk attached to the French Consulate, and a proposal, at the termination of the functions of the Arbitrators, of lodging the papers in the British Consulate would naturally have been resented, as intimating want of confidence either in the person of M. Menant or in the office to which he was attached, without any good or satisfactory reason.

8. The French Consulate having received those papers, and thereby accepted the duties of a depositary, became, as regards the custody of the papers, the representative or the successor of the Arbitral Commission; and, just as, when they were in the hands of the Arbitrators, they were accessible to the parties concerned in the Arbitration proceedings, so have they continued to be, in the hands of that Consulate, when inspection by either of those parties is required.

9. Whether that Consulate, as the depositary of the papers, is legally bound to give copies, with or without payment of any fee, may be questioned. But it is perfectly clear to my mind that the Consul, or the officer in charge of the papers, cannot refuse, to General Ben Ayad or his agents, or to the agents of the Tunisian Government, access to them, with permission of taking copies; and that, if the accuracy of copies so taken, or their admissibility in evidence, should be disputed, the said Consul or officer may, by the competent judicial authority, be compelled to produce the originals, either for collation with those copies, or for the taking of other copies by a person appointed by the said authority.

10. I am also of opinion that, in the absence of circumstances giving rise to a serious suspicion that the application for inspection or for permission of taking copies is made for an illegal purpose, the Consul, or the officer in charge of the papers, has no right to inquire for what particular object the copies are wanted; and, in the present instance, as far as I can see, the fact that the application is made *bona fide*, for a legitimate and very important object, is unquestionable.

11. According to M. Michellad's letter of the 30th March, the object for which General Ben Ayad wants the copies applied for, is to use them, in some intended proceedings, in order to prove what claims had been brought forward and what documents had been produced by both parties, before the Arbitral Commission, with a view of showing that the Tunisian Government had, on that occasion, unfairly kept back important documents, and thereby misled that Commission to his prejudice: "*J'ai dit*" (Ben Ayad states in that letter) "*que la religion des Arbitres avait été surprise; que certains titres de créance ou 'theskérés' qui auraient dû être maintenus en ligne de compte, ont été écartés du débat par le fait du Gouvernement Tunisien; que dès lors il y a lieu, de ce chef, à redressement de compte.*" Si j'obtiens copie des conclusions qui ont été prises par moi, et copie de celles qui ont été prise par mon adversaire, j'y trouverai la nomenclature, l'inventaire, pour ainsi dire, de tous les documents qui ont été soumis à la discussion des parties, et à l'appréciation des Arbitres, puisque la discussion n'a pu porter que sur des pièces produites. Si, d'autre part, j'obtiens copie du récépissé que j'ai dû délivrer à M. Menant lorsqu'il m'a remis partie de mon dossier, j'en déduirai, par voie de retranchement, la nomenclature des pièces qui, déposées par moi, ne m'ont pas été remises, et sont restées, à tort, soit entre les mains de la Commission, soit peut-être entre les mains de mon adversaire, le Gouvernement Tunisien."

In substance, according to this letter, the object for which the copies asked for are wanted, is to support an action for the reversal of the Award of the Arbitrators, as the result of a suppression of documents, for which the Tunisian Government is responsible.

12. The circumstances out of which that action appears to be taken to arise seem to be those stated in Mr. Ricketts' letter of the 23rd May. It will be remembered by those who saw the Award of 1884 that General Ben Ayad was, by that Award, condemned to pay to the Tunisian Government a sum of money, as the balance of an amount which he had, on Government "*teskérés*" (orders) received from Kaid Momou (then a receiver of taxes or other public moneys), or from other officials, far exceeding his lawful claims upon the Government. The payments by Kaid Momou to Ben Ayad were proved by documents bearing the latter's signature, and inserted by the former, as vouchers to his official accounts. Now, according to Mr. Ricketts' statement, Ben Ayad, some time after the termination of the arbitration proceedings, instituted, at Corfu, an action for a large sum of money due to him by the said Kaid Momou; and the latter, on that occasion, produced a contract showing that a sum of 199,481 piastres, of which Ben Ayad holds the receipts, was guaranteed to him (Kaid Momou) in case it was claimed against him. A copy of this contract is mentioned by

Mr. Ricketts as accompanying his letter, but I have not found it among the inclosures sent to me.

13. I am not called upon to express any opinion as to the real nature of the action which arises from the circumstances stated in M. Michellad's or Mr. Ricketts' letters, and, indeed, the facts, as stated in those letters, are not sufficiently clear to enable me to form an opinion. It is possible that, as M. Massicault, the French Minister Resident in Tunis, is reported to have said, that action is independent of the Arbitration proceedings; but that is no reason to justify a refusal of a permission to Ben Ayad's agents to inspect, and take copies of, any of the papers connected with those proceedings, and deposited in the French Consulate. The question of their importance respecting Ben Ayad's intended action is, at this moment, for his own legal advisers, not for the French Consulate, to consider.

14. As to the second question, viz., what steps should be taken to obtain the said copies, I believe that, if it be clearly explained to the French Government in Paris, that all the papers connected with the Arbitration proceedings were, by the Arbitrators, left in the hands of M. Menant, with a view to be lodged, as indeed they appear to have been lodged, in the French Consulate, as a deposit in the hands of a third party, and for mere custody, that neither of the parties in those proceedings (the Tunisian Government and Ben Ayad) has any right of property on those papers to the exclusion of the other; that they are, therefore, equally accessible to both parties, for legitimate purposes, and that the object for which Ben Ayad wishes to see them, and to have copies of them, namely, to support an action either against Kaid Momou, or against the Tunisian Government, for a large sum of money apparently due to him, instructions will at once be given to the proper officer in Tunis, to allow Ben Ayad's agents access to any of the papers above mentioned, and even to furnish him with the certified copies he asks for on payment of such fees as may be deemed regular. The French Government cannot fail to see that there being nothing of a secret or confidential nature in those papers, a continued opposition to Ben Ayad's application would have the appearance of a desire to prevent him from having his claim brought and discussed before a competent Tribunal, in the manner in which he believes to be most conducive to the administration of justice.

15. But if, notwithstanding such an explanation, the French Government should decline giving instructions to the effect above stated, and the French officers in Tunis continue to refuse compliance with Ben Ayad's application, I see no other way for the attainment of his object but that of a recourse to the competent judicial authority, as suggested in Sir Philip Currie's letter to Mr. Ricketts dated the 11th May last.

16. I have marked this Memorandum as Confidential, only because the papers to which it refers are also so marked. I need hardly say that, as far as I am concerned, I have not the least objection to any publicity which Lord Knutsford or the Marquis of Salisbury may deem fit to give it.

(Signed) A. DINGLI.

Malta, July 31, 1889.

No. 215.

The Marquis of Salisbury to the Earl of Lytton.

(No. 348.)

My Lord,

Foreign Office, August 14, 1889.

AN application, for the intervention of Her Majesty's Government, has been received from General Ben Ayad, of Tunis, to enable copies of certain documents put in by him during the course of the proceedings before M. de Blignières and Sir A. Dingli, the Arbitrators to whom the matters in dispute between himself and the Tunisian Government were referred in 1884.

These documents were, at the conclusion of the Arbitration proceedings, intrusted to the custody of the French Consulate in Tunis, and copies of them are now required by the General for the prosecution of his claims against the Tunisian Government.

I transmit, for your Excellency's perusal, the accompanying Memorandum drawn up by Sir A. Dingli, whose opinion on the subject had been asked;* and I have to request that you will represent the matter to the French Government, and express the hope that the French authorities at Tunis may be instructed to allow General Ben Ayad to have access to these documents, a list of which is given in the Memorandum, and to take copies of them if he desires to do so.

* Inclosure 2 in No. 214.

The Memorandum being sent in original, I have to request that it may in due course be returned to this Office.

I am, &c.
(Signed) SALISBURY.

No. 216.

Acting Consul-General Carbonaro to the Marquis of Salisbury.—(Received September 12.)

(No. 52.)

My Lord,

Tunis, September 4, 1889.

I HAVE the honour to inclose herewith, for your Lordship's information, copies of a Petition presented to this Consulate by General Sy Hamida Ben Ayed regarding the registration of his property by the Mixed Tribunal, and of the answer by the French Residency.

I inclose also herewith copies of a Petition by Mr. T. L. Smith, and of the answer by the Residency on a similar subject.

I have, &c.
(Signed) G. CARBONARO.

Inclosure 1 in No. 216.

General Hamida Ben Ayed to Acting Consul-General Carbonaro.

Tunis, le 8 Août, 1889.

LE soussigné Général Hamida Ben Ayed, propriétaire demeurant à Tunis, a l'honneur de vous informer qu'il est propriétaire d'un terrain à bâtir sis tant derrière sa maison de l'Avenue de France que derrière la Régie des Tabacs attenant à cet immeuble.

Que le Sieur Nuée se disant propriétaire de ce terrain qu'il aurait acquis du Collège Sadiki en demande l'immatriculation devant le Tribunal Mixte sous le No. 93 ("Journal Officiel" du 6 Juin, 1889).

Que ce terrain appartient à l'exposant, lequel d'ailleurs en est en possession.

En conséquence, le Général Hamida Ben Ayed, sujet Anglais, s'oppose absolument aux opérations qu'entend faire le Tribunal Mixte, lequel ne peut être compétent en la matière en égard à la nationalité de l'exposant, et prie M. le Consul d'avoir l'obligeance de faire transmettre par les voies usuelles la protestation qu'il vient de faire.

Agréez, &c.
(Signé) HAMIDA BEN AYED.

Inclosure 2 in No. 216.

Acting Consul-General Carbonaro to M. Regnault.

Sir,

Tunis, August 9, 1889.

I HAVE the honour to inclose herewith copy of a protest, dated the 8th instant, presented to this Consulate by General Sy Hamida Ben Ayed, a British protected subject, begging you will cause it to be transmitted to the competent authorities for the ends of justice.

I have, &c.
(Signed) G. CARBONARO.

Inclosure 3 in No. 216.

M. Regnault to Acting Consul-General Carbonaro.

M. le Gérant,

Tunis, le 31 Août, 1889.

A LA date du 9 de ce mois vous avez bien voulu me transmettre la copie d'une réclamation qui vous a été adressée par le Général Hamida Ben Ayed, sujet protégé Britannique, à l'occasion d'un différend survenu entre lui et le Sieur Nuée, relativement

à la propriété d'un terrain à bâtir sis derrière sa maison de l'Avenue de France et derrière la Régie des Tabacs, appartenant à cet immeuble.

Le Sieur Nuée, se disant propriétaire de ce terrain, qu'il aurait acquis du Collège Sadiki, en a demandé l'immatriculation devant le Tribunal Mixte. En sa qualité de sujet Britannique Sy Hamida Ben Ayed prétend décliner la compétence de ce Tribunal.

Je ne puis que vous faire observer, M. le Gérant, qu'aux termes de la Loi du 2 Rabia-el-Aoual, 1306 (6 Novembre, 1888), paru au "Journal Officiel" le 8 du même mois, les justiciables des Tribunaux Français peuvent faire opposition aux demandes d'immatriculation soumises au Tribunal Mixte et recourir à la juridiction Française pourvu qu'aucune défense au fond n'ait eu lieu devant le Tribunal Mixte et que l'instance soit fondée sur un droit existant antérieurement à l'insertion au "Journal Officiel" de la déclaration d'immatriculation.

Dans ce cas, le Tribunal Mixte doit surseoir à statuer sur l'admissibilité de la demande à fin d'immatriculation jusqu'après décision, passée en force de chose jugée du Tribunal compétent.

Je vous serai donc obligé, M. le Gérant, de faire connaître à Sy Hamida Ben Ayed qu'il lui appartient de suivre la voie judiciaire, et que s'il ne le faisait pas dans les délais qui lui sont impartis par la Loi, il s'exposerait à être condamné par défaut devant le Tribunal Mixte, et devrait assumer la responsabilité de sa négligence.

Agréez, &c.
(Signé) J. REGNAULT.

Inclosure 4 in No. 216.

Acting Consul-General Carbonaro to General Hamida Ben Ayed.

M. le Général,
J'AI l'honneur de vous remettre copie de la réponse à votre Pétition du 8 Août, 1889, reçue ce jour de la Résidence Française.

Agréez, &c.
(Signé) G. CARBONARO.

Inclosure 5 in No. 216.

Mr. Smith to Acting Consul-General Carbonaro.

M. le Consul,
J'AI l'honneur de vous informer que l'Administration des Habbous a commencé l'immatriculation d'une propriété près de Mateur nommée "El Sil," et qu'en faisant le bornage provisoire, elle a fait poser des pierres sur ma propriété qui en est limitrophe. Ayant protesté, j'ai été sommé de paraître devant le Tribunal Mixte pour entendre juger l'affaire.

Je viens respectueusement vous prier de prendre les démarches nécessaires pour que cette question soit décidée par le Tribunal, soit du "Charâa," qui, selon les Traités est le seul compétent pour les questions immobilières lorsqu'un sujet Anglais est intéressé.

J'ai, &c.
(Signé) T. L. SMITH.

Inclosure 6 in No. 216.

Acting Consul-General Carbonaro to M. Regnault.

Sir,
I HAVE the honour to inclose herewith copy of a protest, dated this day, presented to this Consulate by Mr. T. L. Smith, a British subject, begging you will cause it to be transmitted to the competent authorities for the ends of justice.

I have, &c.
(Signed) G. CARBONARO.

Inclosure 7 in No. 216.

M. Regnault to Acting Consul-General Carbonaro.

M. le Gérant,
PAR votre lettre du 13 de ce mois, vous avez bien voulu me faire parvenir la copie d'une réclamation qui vous a été adressée par Mr. T. L. Smith, sujet Britannique.

Ce dernier fait connaître que l'Administration des Biens Habbous a commencé l'immatriculation d'une propriété nommée "El Sil," située près de Mateur, et il se plaint que, pendant les opérations du bornage provisoire, des pierres aient été posées sur des parcelles de sa propriété qui est limitrophe. A la suite de sa protestation, Mr. Smith a reçu une assignation à comparaître devant le Tribunal Mixte pour entendre juger l'affaire.

En sa qualité de sujet Britannique, Mr. Smith demande que ce procès soit décidé par le Tribunal du "Charâa" qui, suivant lui, est seul compétent pour juger les questions immobilières lorsqu'un Anglais y est intéressé.

Je vous serai obligé, M. le Gérant, de faire observer à votre administré que le Tribunal Mixte est régulièrement saisi des contestations soulevées par la procédure d'immatriculation des propriétés foncières. Toutefois, aux termes de la Loi du 2 Rabia-et-Tani, 1306, qui a modifié l'Article 36 de la Loi du 19 Ramadan, 1302, les justiciables des Tribunaux Français peuvent faire opposition aux demandes d'immatriculation soumises à ce Tribunal, et recourir à la juridiction Française pourvu qu'aucune défense au fond n'ait eu lieu devant le Tribunal Mixte, et que l'instance soit fondée sur un droit existant antérieurement à l'insertion au "Journal Officiel" de la déclaration d'immatriculation.

Dans ce cas, le Tribunal Mixte doit surseoir à statuer sur l'admissibilité de la demande à fin d'immatriculation jusqu'après décision passée en force de chose jugée, du Tribunal compétent.

C'est donc par la voie judiciaire que Mr. Smith devait, s'il le jugeait à propos, faire valoir ses droits devant la juridiction Française et sa réclamation ne saurait empêcher aucun effet des dispositions légales actuellement en vigueur dans la Régence.

Agréez, &c.
(Signé) J. REGNAULT.

Inclosure 8 in No. 216.

Acting Consul-General Carbonaro to Mr. Smith.

Sir,
I HAVE the honour to inclose herewith copy of the answer to your Petition, dated the 13th ultimo, received from the Residency this day.

I have, &c.
(Signed) G. CARBONARO.

No. 217.

Acting Consul Carbonaro to the Marquis of Salisbury.—(Received October 15.)

(No. 54.)

My Lord,

I HAVE the honour to inclose herewith, for your Lordship's information, an extract from the "Journal Officiel" of a Beylical Decree, dated the 29th September, 1889, fixing the Municipal sanitary tax at the rate of 3¼ per cent. on the rent of immovable property in this town.

In Article 9 it is stated that, in case of default, after due notice is given to the proprietor by the Municipal tax-gatherer, the furniture and effects existing in the property shall be seized and sold by auction by a "huissier." It appears that such sales shall take place without an order from the French Tribunal. Thus, British subjects are submitted to a Beylical Decree depriving them of their rights to have recourse to the French Tribunal for redress when they consider themselves to have been imposed upon.

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It is to be remarked that, whilst the proprietor is responsible for the payment of this tax, the furniture to be seized will be that of the tenant, which will give place to continued litigation between proprietors and tenants.

I have, &c.
(Signed) G. CARBONARO.

Inclosure in No. 217.

Decree on Sanitary Tax, dated September 29, 1889.

Décret du 4 Sfar, 1307 (29 Septembre, 1889).

Louanges à Dieu.

NOUS Ali Pacha Bey, Possesseur du Royaume de Tunis :
Sur le rapport de notre Ministre,
Vu les délibérations du Conseil Municipal de Tunis, en date des 28 Février, 25 Avril, et 25 Mai, 1889, votant le tarif de la taxe de balayage et du curage des égouts ;
Vu l'avis conforme du Directeur-Général des Travaux Publics de la Régence,
Nous avons pris le Décret suivant :—

Article 1^{er}.—Tarifs de la Taxe de Balayage et de Curage des Egouts.

La taxe Municipale de balayage et de curage des égouts perçue à Tunis sera égale au 3.75 pour cent de la valeur locative des immeubles ou des terrains non bâtis mais sur lesquels sont exploitées des industries.

Les immeubles d'une valeur locative inférieure à 160 piastres par an seront assujettis à un droit fixe de 6 piastres.

La taxe est à la charge des propriétaires ; elle sera appliquée à dater du 13 Octobre, 1889.

Article 2.—Immeubles non assujettis à la Taxe.

Ne sont point soumis à la taxe :

1. Les bâtiments affectés aux cultes ;
2. Nos Palais et ceux des membres de notre famille jouissant d'une liste civile, à l'exception toutefois des propriétés de rapport pouvant leur appartenir et des maisons d'habitation appartenant aux maris des Princesses ;
3. Tous les édifices affectés à l'installation des divers services publics et les bureaux des fonctionnaires et employés des dits services ;
4. Les Consuls ;
5. Les hôpitaux ;
6. Les parties des bâtiments qui servent aux élèves dans les établissements publics d'éducation ou d'instruction ;
7. Les parties des gares qui ne sont pas affectées au logement du personnel et des employés.

La taxe pour le balayage et le curage des égouts étant à la charge des propriétaires, les exemptions ci-dessus spécifiées ne pourront être accordées qu'autant que les bâtiments affectés aux usages qu'elles prévoient ne seront pas loués ou appartiendront à l'État.

Article 3.—Zone dans laquelle la Taxe est perçue.

La taxe de balayage et de curage des égouts est applicable dans une zone limitée par les remparts de la ville, par le lac et par les deux kandaks qui se dirigent de Bab-Alléoua et de Bab-Kadra vers le lac.

Article 4.—Formation et Publication de la Taxe de Balayage.

Chaque année, avant le 13 Octobre, le Président de la Municipalité fait procéder à la formation des rôles de la taxe.

Ces rôles sont soumis à l'exécutoire du Premier Ministre et envoyés au Receveur Municipal.

Celui-ci fait porter les rôles à la connaissance des contribuables par voie d'affiche et d'avertissement individuel.

L'avertissement énoncera :

1. L'évaluation du loyer de l'immeuble ;
2. Le montant de la taxe imposée au contribuable ;
3. Le délai et le mode des réclamations.

Article 5.—Recouvrement de la Taxe.

Le Receveur Municipal est chargé du recouvrement de la taxe qui est payable par douzièmes échus de mois en mois ; les termes échus au moment de la publication des rôles sont immédiatement exigibles, à moins qu'il n'en soit autrement ordonné par le Président de la Municipalité.

Il lui appartient d'accorder des sursis, s'il y a lieu, et d'échelonner les paiements.

La taxe est due pour l'année entière sauf le cas de démolition totale ou partielle.

En cas de décès d'un contribuable, les héritiers sont tenus d'acquitter le montant de la taxe.

Article 6.—Droit de Réclamation.

Tout contribuable qui se croit mal imposé a le droit de former une demande en décharge ou réduction de la contribution.

Les réclamations sont adressées au Premier Ministre, lorsqu'elles ont pour objet des contributions imposées à des sujets Tunisiens.

Les sujets étrangers doivent se pourvoir devant les Tribunaux Français.

Article 7.—Délais dans lesquels les Réclamations doivent être présentées.

Les demandes en décharge ou réduction, ou mutations de cote, pour être recevables, doivent être présentées dans le délai de trois mois à partir de la publication des rôles.

Les demandes de dégrèvement pour cause de destruction ou démolition totale ou partielle de bâtiments doivent, pour être recevables, être présentées dans le mois qui suit l'achèvement de la démolition.

Le jour de la publication des rôles et celui de l'échéance ne sont pas compris dans les délais fixés par le présent Article.

Article 8.—Formes des Réclamations.

Toute réclamation en décharge ou réduction doit, pour être recevable, être accompagnée de la quittance des termes échus.

Article 9.—Règlement des Poursuites.

Tout contribuable en retard pourra être poursuivi par voie de saisie et de vente mobilière.

Les poursuites n'auront lieu qu'après deux sommations, préalables, à dix jours de distance.

La première de ces sommations sera signifiée au contribuable par la voie de la poste.

La deuxième sommation sera signifiée également par la voie de la poste et par lettre recommandée dont le Receveur devra réclamer un accusé de réception.

Si après cette deuxième sommation le contribuable ne se libère pas, le Receveur remet aux huissiers près les Tribunaux un extrait du rôle rendu exécutoire par notre Premier Ministre comme il a été dit à l'Article 4. L'extrait du rôle est transcrit en tête du commandement de payer que l'huissier signifie au retardataire ; il est procédé, après cette formalité, à la saisie des meubles et effets.

Le Receveur fait ensuite procéder à la vente des meubles et effets.

Les frais de port des deux sommations, les frais de poursuites, s'ajoutent au principal de l'impôt.

L'Administration aura privilège pour le paiement de l'impôt sur le prix de vente du mobilier de ses débiteurs.

En ce qui concerne les sujets Tunisiens il pourra être aussi procédé contre eux par voie de contrainte par corps, conformément aux dispositions du Décret du 24 Rabia-el-Aoual, 1302 (10 Janvier, 1885).

Article 10.

Sont abrogées les taxes de balayage ou de curage des égouts perçues à Tunis en vertu d'usages locaux ainsi que toutes les dispositions contraires au présent Décret.

Article 11.

Notre Premier Ministre est chargé de l'exécution du présent Décret.

Vu pour promulgation et mise à exécution.

Le Consul de France, Délégué à la Résidence Générale
de la République Française,
(Signé) E. REGNAULT.

Tunis, le 29 Septembre, 1889.

No. 218.

Memorandum by Mr. Streatfeild on the Tunisian Decree respecting the Municipal Sanitary Tax.

Acting
Consul
Carbonaro,
No. 52,
October 8,
1889.

ACTING CONSUL CARBONARO forwards a copy of a Beylical Decree, dated the 29th September, 1889, fixing the Municipal sanitary tax at the rate of 3½ per cent. on the rent of immovable property. He observes that, by "Article 9, it is stated that in case of default, after due notice has been given to the proprietor by the Municipal tax-gatherer, the furniture and effects existing in the property shall be seized and sold by auction by a huissier," and that it appears that such sales are to take place without an order from the French Tribunal, whereby British subjects are subjected to a Decree depriving them of their rights to have recourse to the French Tribunal for redress should they consider themselves to have been imposed upon.

By Article II of the Convention between Great Britain and Tunis of the 10th October, 1863, which was confirmed by the Convention of the 19th July, 1875, it is provided that—

"British subjects possessing immovable property shall pay the same Municipal and fiscal taxes which are paid by natives, and shall discharge in general the obligations which are by law attached to, and are discharged by, the like property held by natives."

And by Article III it is provided that, "Every proprietor of houses, magazines, or other tenements, shall conform to the Municipal Regulations now existing, or which shall hereafter exist."

The French Government has acknowledged itself to be bound by the Conventions between Great Britain and Tunis of 1863 and 1875, both in its Treaty with Tunis of the 12th May, 1881, and by written assurances (see annexed Memorandum by Sir Edward Hertslet).

It would appear, therefore, that, according to the Convention of 1863, British subjects have no ground for objecting to the tax in question, provided it is imposed on natives of Tunis and British subjects alike.

With regard to the measures to be taken for enforcing payment of the tax, the Law Officers reported in July last, in the cases of Messrs. Licari and Ellul, whose premises had been entered by order of the Municipality for the enforcement of sanitary measures, without any judicial process having been instituted, and without the previous consent of Her Majesty's Consul-General having been obtained, that there was no provision under the Conventions of 1863 and 1875 which would exempt the dwellings of British subjects from liability to the process prescribed by the Municipal Law.

With regard to Acting Consul's Carbonaro's statement that the Decree will have the effect of depriving British subjects of their right to appeal to the French Tribunals, he must have overlooked Article 6, which distinctly states that, with regard to complaints, foreigners are to have the right of appeal to those Tribunals, and which is worded as follows:—

"Article 6.—Droit de Réclamation.

"Tout contribuable qui se croit mal imposé a le droit de former une demande en décharge ou réduction de la contribution. Les réclamations sont adressées au Premier Ministre, lorsqu'elles ont pour objet des contributions imposées à des sujets Tunisiens. Les sujets étrangers doivent se pourvoir devant les Tribunaux Français."

(Signed) FREDK. H. T. STREATFEILD.

Foreign Office, October 23, 1889.

No. 219.

The Earl of Lytton to the Marquis of Salisbury.—(Received October 26.)

(No. 480.)

My Lord,

Paris, October 25, 1889.

I HAVE the honour to transmit herewith to your Lordship an article from the "Estafette" newspaper by M. Jules Ferry, on the circumstances attending the French occupation of Tunis, contradicting the assertions made in the "Pensiero," an Italian paper published at Nice. M. Ferry denies that the occupation of Tunis was suggested to him by Prince Bismarck, or that any breach of faith towards Italy was involved in it.

I have, &c.

(Signed) LYTTON.

Inclosure in No. 219.

Extract from the "Estafette" of October 22, 1889.

COMMENT S'ÉCRIT L'HISTOIRE.—"L'Estafette" a démenti, il y a quelques jours, sans avoir eu besoin de m'en référer, les conversations que me prêtaient, avec une si plaisante assurance, le "Caffaro," de Gênes, et le "Pensiero," de Nice, deux émules en gallophobie. La réponse était péremptoire; je ne suis pas allé à Nice et j'étais à Saint-Dié, au moment même où les deux compères me faisaient discourir. Je ne serais pas revenu sur un incident qui est surtout ridicule, si l'on ne m'avait communiqué le numéro du "Pensiero," du 6 Octobre, qui reproduit toute cette belle histoire. J'y vois qu'il s'agit d'autre chose que d'une fausse nouvelle, que c'est une véritable campagne qui se poursuit, à ce propos, depuis quelques semaines contre la politique Française, dans l'intention manifeste de travestir les événements passés, et de réveiller entre la France et l'Italie des récriminations assoupies. Les calomnies de la feuille séparatiste de Nice me laisseraient fort indifférent. Un patriote ne peut que s'honorer d'être en butte aux attaques de gens qui sont en état permanent de haute trahison contre la patrie Française. Mais la fable inventée par le "Pensiero" a fait, paraît-il, le tour de la presse Italienne, et je sais par expérience qu'en fait d'histoire contemporaine il n'est point de mensonge, si grossier qu'il soit, qui ne puisse s'accréditer avec de l'audace.

A cet égard, le "Pensiero" peut en remontrer aux plus experts.

Il ne prouve rien, bien entendu, et n'essaie de rien prouver, mais il affirme avec une imperturbable gravité:—

1. Qu'au Congrès de Berlin M. de Bismarck aurait offert la Tunisie à l'Italie, M. Cairoli aurait refusé. Il aurait fait plus, il aurait prévenu le Gouvernement Français de cette démarche insidieuse, ce qui lui attirait, de notre part, les remerciements les plus chaleureux, et les protestations d'amitié les plus tendres.

2. De dépit, M. de Bismarck se serait alors tourné vers la France, et lui aurait fait la même offre qu'à l'Italie. Le Ministère Français, présidé par M. Ferry, aurait accepté le cadeau. Et comme M. Cairoli, mis en défiance, l'interrogeait sur ses intentions, M. Ferry lui aurait "juré ses grands dieux" qu'il n'avait nullement l'intention d'occuper la Tunisie. "Huit jours après la France était à Tunis."

3. M. Cairoli, qui pouvait sauver son amour-propre et son portefeuille en dénonçant au Parlement Italien cet acte de déloyauté, aurait mieux aimé se taire et perdre le pouvoir, craignant qu'une parole imprudente n'allumât la guerre entre les deux peuples. Mais il aurait tout confié, quelques mois avant sa mort, au rédacteur du journal de Nice.

Le confident ajoute que l'illustre homme d'État ne pouvait parler de ces choses sans entrer "dans une sainte fureur" ("santo furore"), et qu'il avait, pour cette raison, refusé de recevoir M. Ferry lorsque celui-ci vint passer quelque temps à Rome au printemps de 1885.

Dans ce récit, tout est faux et puéril.

L'artifice, d'ailleurs, saute aux yeux. Huit ans ont passé sur les affaires de Tunisie. M. Cairoli est mort. C'est le moment qu'on choisit pour le mettre en scène. On appelle en témoignage un mort illustre qui s'est tu pendant toute sa vie. Mais à quel homme de bon sens fera-t-on croire que M. Cairoli se serait tu, s'il avait eu quelque chose à dire?

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En admettant que M. Cairoli se fût immolé par patriotisme au mois de Mai 1881, qui l'empêchait de parler en 1882 ? Je n'étais plus alors Premier Ministre, et M. Cairoli n'avait aucune raison de me ménager. Je reprends la direction des affaires en 1883, M. Cairoli se tait toujours. Je quitte le pouvoir en 1885, M. Cairoli se tait pendant quatre ans encore. Il faut pour qu'on juge à propos de révéler au public cette ténébreuse affaire que M. Cairoli ne soit plus de ce monde et que la période électorale soit ouverte. Pourquoi ? Parce que mes amis sont candidats dans les Alpes Maritimes. C'est eux qu'on vise en cherchant à m'atteindre. La trame devient tout à fait claire. Et la feuille séparatiste demande, d'un ton solennel, si j'oserai démentir les paroles de M. Cairoli ?

Je le crois bien, car je nie tout.

Je nie que l'Allemagne, au Congrès de Berlin, ait offert la Tunisie à l'Italie. C'est une légende qui a cours dans la presse Italienne, mais de laquelle on n'a jamais fourni la moindre preuve. Je nie que le Ministère des Affaires Étrangères de France ait reçu à ce sujet aucune communication de la "Consultà." On ne nous fit aucune confiance, nous n'eûmes pas à faire de remerciements.

Je nie absolument que le Chancelier d'Allemagne ait, au refus de l'Italie, offert à la France la Tunisie. Le Congrès de Berlin n'était saisi, ni de près ni de loin, de la question de Tunisie, et la Régence n'était pas au nombre des biens vacants et sans maître. Encore une fausse légende, qui peut être du goût des diplomates de fantaisie mais qui fait hausser les épaules aux gens sérieux, au courant des hommes et des choses d'Europe.

Je nie par dessus tout les engagements et les promesses dont M. Cairoli aurait emporté le secret dans la tombe. Des engagements écrits ? On les aurait produits. Des engagements verbaux ? Qui les aurait reçus ? Ce n'est pas à coup sûr M. Cairoli, avec qui je n'ai jamais eu l'honneur de me rencontrer. J'aurais désiré le voir à Rome au printemps de 1885, mais M. Cairoli était alors en Sicile avec MM. Crispi et Nicotera ; on célébrait l'anniversaire de l'expédition des Mille, et je dus quitter Rome sans pouvoir profiter de l'entrevue qu'un ami commun avait bien voulu nous ménager. Ce refus de me recevoir est inventé comme tout le reste. Enfin, je nie que la question se pose entre mon témoignage et celui de M. Cairoli. Ce n'est pas M. Cairoli qui parle, c'est le "Pensiero" qui le fait parler.

J'ai tenu cependant à démentir ce misérable commérage, pour montrer aux Italiens de bonne foi à quelles armes les gallophobes ont recours pour attiser la haine entre la France et l'Italie. Je n'ai rien à renier ni à regretter de ce que j'ai fait aux mois d'Avril et Mai 1881. Je n'ai pas non plus la prétention de mettre d'accord, dans cette délicate question, les intérêts permanents de la France avec les vues de l'Italie.

Il existe à cet égard, chez nos voisins, des préjugés et des illusions dont le temps, seul, peut avoir raison ; mais je tiens à dire bien haut, pour l'honneur de mon pays, que, si la France a dû, à un moment donné, poursuivre en Tunisie des desseins conformes à sa tradition nationale et nécessaires à sa sécurité, ce n'est pas au prix d'une déloyauté. Tout s'est fait en pleine lumière, et il n'y a eu de surpris par l'événement que ceux qui ont bien voulu l'être.

L'établissement du Protectorat Français en Tunisie était attendu, escompté, accepté par la diplomatie Anglaise, depuis le jour où le Gouvernement Britannique s'était fait céder par la Porte l'administration et la possession de l'Ile de Chypre. La diplomatie Italienne n'était pas non plus sans l'avoir prévu, puisqu'au mois de Juillet 1880, le Général Cialdini venait de la part de M. Cairoli entretenir M. de Freycinet, Président du Conseil, et Ministre des Affaires Étrangères, du droit qu'en cette hypothèse l'Italie croyait avoir à un dédommagement. Je n'en dirai pas davantage sur ce sujet si mal connu, et que les passions du dehors et du dedans se sont plu à travestir. Moi aussi—je l'ai prouvé en plusieurs circonstances—je sais me taire par patriotisme. Mais, je me devais à moi-même de protester contre le rôle odieux que des calomnies posthumes voudraient m'attribuer ; je le devais aussi à mes amis d'Italie, aux hommes d'État et aux diplomates avec lesquels il m'a été donné de régler à la satisfaction des deux pays, et avec un bon vouloir auquel nos voisins se plaisaient à rendre hommage, les conséquences diplomatiques du Traité du Bardo. Je le devais enfin à tous ceux qui n'ont pas cessé de croire, et ils sont nombreux même en Italie, que l'Italie et la France ont mieux à faire dans le monde que de se jalouser et de se haïr.

(Signé) JULES FERRY.

No. 220.

Acting Consul Carbonaro to the Marquis of Salisbury.—(Received October 28.)

(No. 55.)

My Lord,

Tunis, October 22, 1889.

I HAVE the honour to report, for your Lordship's information, that, at a public audience of the French Tribunal of this town, the President stated that "all the Bey's Decrees sanctioned by the French Resident are considered as forming part of the French Laws to which, not only the French residing at Tunis are subjected, but also all foreigners without distinction of nationality ; and that this has been confirmed by the 'Cour de Cassation.'"

I have, &c.
(Signed) G. CARBONARO.

No. 221.

Foreign Office to Acting Consul Carbonaro.

(No. 47.)

Sir,

Foreign Office, October 31, 1889.

I AM directed by the Marquis of Salisbury to acknowledge the receipt of your despatch No. 54 of the 8th instant, inclosing a Beylical Decree dated the 29th September, 1889, by which a Municipal sanitary tax is imposed on real property in the city of Tunis, at the rate of 3½ per cent. of the annual rent value. I am to observe that by Article II of the Convention between Great Britain and Tunis of the 10th October, 1863, which was confirmed by the Convention of the 19th July, 1875, it is provided that : "British subjects possessing immovable property shall pay the same Municipal and fiscal taxes which are paid by natives, and shall discharge in general the obligations which are by law attached to, and are discharged by, the like property held by natives." By Article III it is also provided that : "Every proprietor of houses, magazines, or other tenements shall conform to the Municipal Regulations now existing or which shall hereafter exist."

It would appear, therefore, that, according to the Convention of 1863, British subjects have no grounds for objecting to the tax in question, provided that it is imposed on natives of Tunis and British subjects alike.

With reference to your observation that the Decree deprives British subjects of their rights to have recourse to the French Tribunals for redress, when they consider themselves imposed upon, I am to point out that Article 6 of the Decree of the 29th ultimo must have been overlooked by you. That Article distinctly states that foreigners who may consider themselves wrongly assessed are to appeal to the French Tribunals.

("Tout contribuable qui se croit mal imposé a le droit de former une demande en décharge ou réduction de la contribution.

Les sujets étrangers doivent se pourvoir devant les Tribunaux Français.")

As far as Lord Salisbury understands the Decree in question, it is only the owner of real property who is liable to the sanitary tax, and, if the owner does not pay it, the amount of the tax is leviable by distraint upon the owner's goods. These can be seized according to the terms of the Decree, whether they are on the particular piece of realty in respect of which its owner has made default as to the payment of the tax, or whether they are elsewhere within the jurisdiction. They are in fact liable to seizure because they belong to the owner of the property in respect of which the tax has not been paid, and not because they happen to be physically upon that property for the moment, as might for instance be the case with regard to the goods of persons other than the owner of the property, such as a lessee, or a lodger, or a depositor of goods for safe custody.

The last paragraph of Article II, making a Consul liable if he lets his Consular residence, seems, moreover, inconsistent with liability on the part of the lessee, and, on the other hand, if such of the owner's goods only were seizable as happened to be on the particular property itself, of course they could easily be removed elsewhere by the owner in anticipation of the non-payment of the tax and their consequent probable seizure if he suffered them to remain.

I am, &c.
(Signed) P. CURRIE.

The Earl of Lytton to the Marquis of Salisbury.—(Received November 1.)

(No. 483. Confidential.)

My Lord,

Paris, October 30, 1889.

WITH reference to my despatch No. 480 of the 25th instant, I have the honour to transmit to your Lordship an article published in yesterday's "Débats," which is probably from the pen of M. Charmes, late Director of the Political Department of the French Ministry for Foreign Affairs, throwing doubt on the report that Italy had ever been encouraged by Prince Bismarck to occupy Tunis, and declaring that the occupation of that country by France had been brought about in consequence of the intrigues of Italy and with the prior consent of Great Britain.

I have, &c.
(Signed) LYTTON.

Inclosure in No. 222.

Extract from the "Débats" of October 29, 1889.

IL n'y avait assurément aucune opportunité à soulever en ce moment un débat sur l'établissement du Protectorat de la France en Tunisie, et sur ses origines. C'est pourtant ce que la presse Italienne a fait, et dans de telles conditions que M. Jules Ferry, mis personnellement en cause, s'est trouvé forcé de répondre. Sans doute le passage de l'Empereur d'Allemagne à Rome a semblé à nos voisins une occasion excellente de réveiller cette vieille affaire; nous aurions mieux aimé qu'on la laissât dormir, parce que le temps et le silence arrangent mieux les choses que toutes les argumentations et les polémiques. Nous sommes convaincus que c'est l'avis de M. Jules Ferry comme le nôtre; mais on l'avait attaqué, il fallait bien qu'il se défendit. En se défendant, il défendait, d'ailleurs, la politique de la France, qui était attaquée avec lui.

Tout en faisant nos réserves sur l'opportunité du débat, nous devons reconnaître qu'il n'a pas été sans utilité. Les Italiens sont gens d'imagination, et chez eux tendait à s'établir une légende sur laquelle il y avait peut-être lieu de s'expliquer. A force de le répéter, la presse Italienne est arrivée à faire croire dans la Péninsule que, dans les affaires de Tunis, la France a eu des torts à l'égard de l'Italie. Ces torts sont de deux sortes. On raconte volontiers que M. de Bismarck, le grand tentateur, le Méphistophélès de la politique Européenne, dans le dessein de brouiller la France et l'Italie a offert, successivement ou même à la fois, la Tunisie à l'une et à l'autre, avec l'espoir que l'une des deux donnerait suite à une suggestion aussi séduisante, et que l'autre en garderait une rancune éternelle. Il va sans dire que l'Italie a résisté à la tentation; elle tenait trop à ses bons rapports avec la France pour jamais y céder. Celle-ci, au contraire, n'a pas manqué de tomber dans le piège. Elle a fait l'expédition de Tunis, d'autant plus coupable en cela—et c'est le second grief—que, pour endormir l'attention de l'Italie, elle lui avait fait la promesse formelle de maintenir le *statu quo* Africain.

Nous ignorons, pour notre compte, si le Prince de Bismarck a poussé autrefois l'Italie à s'établir en Tunisie. Tout ce que nous savons de la politique générale depuis une quinzaine d'années nous porte à croire le contraire. Rien n'est plus facile que de raconter des anecdotes dont on n'apporte aucune preuve, et de faire courir des bruits qu'on se dispense d'appuyer du moindre document. Il est donc convenu pour les Italiens qu'ils ont repoussé les offres de l'Allemagne. C'est très beau de leur part; malheureusement nous n'avons trouvé dans aucune publication diplomatique que ces offres leur aient jamais été faites, de sorte qu'ils ont l'honneur du refus sans en avoir peut-être eu tout le mérite. Bien plus, nous lisons dans "l'Opinione" diverses citations de dépêches adressées au mois d'Avril et au mois de Mai 1881 par le Comte de Launay à son Gouvernement, dépêches d'où il résulte avec évidence que l'Ambassadeur d'Italie à Berlin n'avait aucune connaissance des prétendues suggestions Allemandes. Il déclare, en effet, à la Consulta: "Ainsi que je l'ai écrit tant de fois, le programme du Cabinet Impérial envers la France consiste à appuyer celle-ci dans sa politique étrangère, tant que les intérêts de l'Allemagne ne se trouvent pas directement en jeu." Et il conclut ainsi: "Le Cabinet de Berlin, ou émettra de se prononcer, ou, s'il le fait, ce sera dans un sens conforme à son attitude passive et en somme plutôt favorable à la France." Le Comte de Launay aurait-il renouvelé dans ces termes des

informations qu'il affirme avoir données tant de fois, dans le cas où le Cabinet de Berlin aurait poussé celui de Rome à occuper la Tunisie?

Quoi qu'il en soit, si M. de Bismarck a donné des conseils de cette nature au Gouvernement Italien, il ne l'a jamais fait vis-à-vis du Gouvernement Français. On a répété trop souvent qu'il nous a poussés à Tunis, soit pour nous brouiller avec l'Italie, soit pour toute autre cause. Aucun document diplomatique ne confirme cette allégation. Nous remarquons dans les dépêches de M. de Launay un mot qui paraît déterminer avec justesse quelle a été l'attitude du Gouvernement Allemand. Elle a été "passive." M. de Bismarck n'a rien fait pour nous introduire en Tunisie; il n'a rien fait non plus pour nous en détourner. Sa conduite à notre égard a été correcte. Il a vu sans regrets la France développer son influence dans des régions où elle ne risquait pas de heurter des intérêts Allemands. Il semble même qu'il l'ait vu avec quelque satisfaction. Rien de plus, rien de moins. L'origine de l'établissement à Tunis de notre Protectorat ne vient pas d'une suggestion Allemande.

D'où vient-elle? Tout le monde sait—car sur ce point il suffit de lire les Livres Jaunes Français et les Livres Bleus Anglais—que la question de Tunis, en ce qui concerne du moins la dernière phase historique qu'elle a traversée, a été l'objet à Berlin, en 1878, de conversations entre M. Waddington d'une part, Lord Salisbury et Lord Beaconsfield de l'autre. L'Angleterre venait de s'emparer de Chypre par une véritable surprise: nous avions le droit d'en ressentir et nous en avons ressenti, en effet, une émotion assez vive, dont M. Waddington s'est fait l'interprète énergique auprès des Plénipotentiaires Anglais. L'équilibre dans la Méditerranée semblait rompu à notre désavantage. C'est alors que le Marquis de Salisbury a bien voulu déclarer que son Gouvernement "n'a jamais ignoré que la présence de la France sur les côtes d'Algérie, appuyée comme elle l'est par une force militaire imposante, doit avoir pour effet, quand elle jugera opportun de l'exercer, de lui donner le pouvoir de peser, avec une force décisive sur le Gouvernement de la Régence de Tunis, sa voisine. C'est là un résultat," continuait-il, "que nous avons reconnu comme inévitable et que nous avons accepté sans répugnance." Il y a eu entente formelle, on le voit, entre le Gouvernement Anglais et le Gouvernement Français, et cela dès 1878, au sujet de la question de Tunis; il est plus que vraisemblable que la Chancellerie Allemande a été tenue au courant de cette entente, et qu'elle n'y a mis aucun obstacle; mais l'entente directe et concrète ne s'est produite qu'avec l'Angleterre, le lendemain même du jour où la Convention Anglo-Ottomane relative à Chypre a été connue.

Pendant trois ans, le Gouvernement de la République a, si on nous permet l'expression, conservé en poche le consentement de l'Angleterre à l'établissement de son Protectorat en Tunisie. Il savait pouvoir compter sur l'attitude passive et plutôt bienveillante de l'Allemagne. Pourquoi n'a-t-il rien fait pendant ces trois années? Son abstention montre que l'œuvre diplomatique accomplie, sur ce point, par M. Waddington, à Berlin, avait le caractère d'une simple précaution prise, et non pas d'un commencement d'action. Le Gouvernement de la République, désireux alors comme il l'a toujours été depuis, de conserver les meilleurs rapports avec l'Italie, tenait essentiellement à éviter tout ce qui aurait pu froisser les susceptibilités de cette Puissance. Qu'il ait déclaré à cette époque n'avoir aucun projet immédiat sur la Tunisie et que sa politique consistait seulement dans le maintien du *statu quo*, nous n'en serions pas surpris, car il ne s'est pas contenté de le déclarer. Il s'est conduit en conséquence. C'est là ce que l'Italie a oublié, et ce dont elle n'a jamais voulu se rendre compte: nous ne désirions pas aller à Tunis, mais nous entendions bien que personne n'y allât à notre place; nous ne pouvions même pas accepter qu'aucune influence politique s'y exerçât à côté de la nôtre et dans des conditions égales. Pourquoi? Il suffit, pour s'en rendre compte, de jeter les yeux sur la carte; on voit aussitôt que la Tunisie fait géographiquement partie de l'Algérie. Aussi longtemps qu'il y a eu à Tunis une Puissance Musulmane faible et inoffensive, nous n'avions rien à dire, et pour ménager tout le monde, nous voulions bien ne rien faire; mais quant à permettre à une autre influence de s'y établir et de battre la nôtre en brèche, c'était impossible. Sinon, notre établissement en Algérie aurait bientôt été mis en cause, et le travail d'un demi-siècle compromis.

Le Gouvernement Italien a-t-il tenu compte des nécessités de notre situation? Nous ne voulons pas récriminer, mais personne n'a oublié ce qui s'est passé à ce moment; voyant que nous ne faisons rien à Tunis, le Gouvernement Italien s'est mis en mesure d'agir à notre place. Notre longue abstention, notre patience exemplaire ont été pour lui des encouragements à tourner vers la Tunisie ses ambitions coloniales. On en a éprouvé quelque tristesse à Paris. De quelque autre côté que l'Italie eût porté son effort expansif, l'abstention bienveillante de la France était certaine; en Tunisie seule-

ment, la situation était différente et nous imposait d'autres résolutions. L'Italie l'a-t-elle ignorée? A-t-elle le droit de nous reprocher d'avoir gardé le silence sur ce point et de l'avoir laissé s'engager, sans avertissement amical, dans une voie dangereuse? Non, certes. Toute l'Europe savait ce que nous pouvions et ce que nous ne pouvions pas accepter. La nature des choses parlait pour nous. Mais, en présence des projets de l'Italie et du commencement d'exécution qui s'en produisait, nous avons dû parler nous-mêmes. Nous l'avons fait discrètement, mais nettement. L'Italie n'a pas pu se tromper sur nos dispositions. Plusieurs Ministres qui se sont succédé à cette époque ont déclaré dans les mêmes termes à l'Ambassadeur Italien à Paris que nous désirions ne rien changer au *statu quo* Tunisien, que nous n'avions aucune vue d'annexion, mais que nous ne laisserions pas l'Italie établir une influence supérieure, ni même égale à la nôtre. Sur le terrain commercial, et dans tout ce qui touche les intérêts privés, nous lui avons dit que la concurrence était libre, qu'elle pouvait nous égaler, et même nous dépasser, mais que sur le terrain politique et dans tout ce qui touche aux intérêts d'État, c'était différent. Ce langage a été tenu à plusieurs reprises, à Paris, par nos Ministres, à Rome, par notre Ambassadeur. Il était impossible d'avertir d'une manière plus précise dans le fond, plus amicale dans la forme. C'est M. Maccio qui a été chargé de répondre à M. Roustan, non pas par des paroles, mais par des actes, et des actes que nous ne voulons pas rappeler.

Telle a été l'origine de l'établissement de notre Protectorat Tunisien. Nous aurions préféré nous taire, mais s'il y a des inconvénients à revenir sur des questions de cette nature, il y en a aussi à laisser le créer des légendes qui, faute d'être contredites, passent bientôt pour des vérités universellement admises. En résumé, nous ne croyons pas que l'Allemagne ait jamais conseillée à l'Italie d'aller à Tunis: quant à nous, elle ne nous y a pas poussés, et, comme elle déclarait n'avoir pas dans ces régions d'intérêts directs, nous n'avons même pas eu à négocier à ce sujet avec elle. Nous avons demandé, au contraire, et obtenu l'acquiescement de l'Angleterre, en profitant des circonstances rappelées plus haut. Qu'avons-nous fait de cet acquiescement? Rien, pendant trois ans. Nous avons proposé à l'Italie le maintien du *statu quo*; elle a voulu le modifier à son avantage. Nous lui avons dit que, si elle persistait dans cette voie, nous serions obligés de l'y devancer; elle n'a pas tenu compte de nos observations. Voilà l'histoire vraie. Nous désirons qu'on la connaisse de l'autre côté des Alpes, non pas pour nous donner le plaisir d'avoir raison. On nous a fait des impressions fausses, qui troublent l'impartialité de nos voisins. On nous a fait des reproches, nous n'avons pas à nous en faire. Nous ne voudrions pas non plus en adresser aux autres. Ne vaudrait-il pas mieux laisser au passé ce qui nous divise, et rechercher dans le présent ce qui pourrait et devrait nous rapprocher?

No. 223.

Foreign Office to Acting Consul Carbonaro.(No. 48.)
Sir,

I AM directed by the Marquis of Salisbury to acknowledge the receipt of your despatch No. 55 of the 22nd ultimo, reporting a declaration made by the President at a public audience of the French Tribunal at Tunis, to the effect that all the Bey's Decrees sanctioned by the French Resident have the force of French law within the Regency, and that all foreigners equally with French citizens are subject to them.

I am, in reply, to observe that so long as the Decrees in question contain nothing contrary to the Capitulations or to the conditions on which Great Britain waived British consular jurisdiction in Tunis in favour of the French Tribunals, there would seem to be no objection to their being so considered.

I am, &c.
(Signed) P. CURRIE.

No. 224.

Mr. R. Drummond Hay to the Marquis of Salisbury.—(Received November 9.)(No. 56.)
My Lord,

I HAVE the honour to inform your Lordship that on my arrival yesterday at the Tunis Railway Station I was met by a considerable portion of the large Maltese colony

of this place, headed by a deputation of some of the principal members. They escorted me to the Consulate, where Dr. A. M. Camilleri, in the name of the community, wished me welcome, and expressed their hope that my arrival amongst them would be the commencement of a more satisfactory state of things for the Maltese, who were always desirous of showing their loyalty to the Queen and Her Government. He added complimentary observations on the fact of my family being favourably known in these regions, and concluded with hoping that I should have no difficulty in dealing with the Maltese colony.

I replied in a few words of thanks, and the deputation withdrew after cheers had been given for the Queen.

I have, &c.
(Signed) R. DRUMMOND HAY.

No. 225.

Consul R. Drummond Hay to the Marquis of Salisbury.—(Received November 22.)(No. 57. Africa.)
My Lord,

Tunis, November 16, 1889.

I HAVE the honour to transmit to your Lordship herewith an extract from the Tunis "Official Journal" of the 14th instant, containing a Beylical Decree, dated the 8th instant, annulling Article 1 of the Decree of the 14th June, 1886, whereby the President and members of the Mixed Tribunal were convened annually, dating from the 1st August, 1886.

According to the new Decree the appointments in the Tribunal have been made permanent.

I have, &c.
(Signed) R. DRUMMOND HAY.

Inclosure in No. 225.

*Extract from the Tunis "Official Journal" of November 14, 1889.**Décret du 15 Rabia-el-Aoual, 1307 (8 Novembre, 1889).*

Louanges à Dieu.

NOUS, Ali Pacha Bey, Possesseur du Royaume de Tunis,
Vu l'Article 33 de la Loi du 19 Ramadan, 1302 (1^{er} Juillet, 1885) sur la propriété foncière;
Vu le Décret du 12 Ramadan, 1303 (14 Juin, 1886) portant organisation du Tribunal Mixte,

Nous avons pris le Décret suivant:—

Article 1^{er}. L'Article 1^{er} du Décret du 12 Ramadan, 1303 (14 Juin, 1886) sus-visé, est abrogé.

Art. 2. Notre Premier Ministre est chargé de l'exécution du présent Décret.

Vu pour promulgation et mise à exécution:

Le Ministre Plénipotentiaire, Résident Général
de la République Française,

(Signé) J. MASSICAULT.

Tunis, le 9 Novembre, 1889.

Décret du 15 Rabia-el-Aoual, 1307 (8 Novembre, 1889).

Louanges à Dieu.

Nous, Ali Pacha Bey, Possesseur du Royaume de Tunis,
Vu l'Article 33 de la Loi du 19 Ramadan, 1302 (1^{er} Juillet, 1885) sur la propriété foncière;
Vu le Décret du 15 Rabia-el-Aoual, 1307.

Nous avons pris le Décret suivant:—

Article Unique.—Sont nommés Président et membres du Tribunal Mixte:—

Président.—M. Fermé, Juge au Tribunal Français;

Juges.—MM. Watrin, Vial, Martineau des Chenez, Juges-Suppléants au Tribunal Français; Si Amar-ben-Cheik, Si Moktar Chuika, Si Mohamed-ben-Mahmoud.

Juge Suppléant.—Si Mohamed Essenoussi.

Vu pour promulgation et mise à exécution:

Le Ministre Plénipotentiaire, Résident Général
de la République Française,
(Signé) J. MASSICAULT.

Tunis, le 9 Novembre, 1889.

No. 226.

Memorandum on the Harbour of Bizerta.—(Received at the Foreign Office, November 28.)

THE harbour works at Bizerta have made considerable progress in the course this last summer. Two dredging machines have been at work in the channel which connects the sea with the Lake of Bizerta, and which was so blocked up with sand that it was almost useless for purposes of navigation, and have deepened it, so that the present depth is about 4 or 5 metres. The middle of the channel is being made still deeper. The permanent bridge over the channel has been broken through in the middle and a movable wooden bridge substituted for it, which permits the passage of ships. A rock which blocked the channel has been removed by blasting. The construction of a dam to run out to sea from the mouth of the channel has also been begun; about 15 metres have already been completed, and it is said that there will be another 60 metres. The dam is intended for the shelter of the roadstead, which is at present very exposed. Four "ingénieurs maritimes," with about sixty workmen, are now engaged upon this work, which is being done at the expense of the French Government. Soundings and measurements of the lake above mentioned are constantly being taken.

It is said that the French Government, being anxious to utilize for military purposes the Lake of Bizerta, which for its size and depth is well adapted for ships of war, and finding that the existing channel is useless as a way of communication with the sea, propose to cut a new channel, in a straight line, through the narrow strip of land which separates the lake from the sea.

From remarks made by French officials at Bizerta, it is supposed that the works will be begun next spring. As the land to be cut through is a flat sandy stretch, there will not be much difficulty in constructing the new channel. Some foundation is thought to be given to the rumour that these works are to be begun next spring by the fact that, by direction of the French Ministry of Marine, the right to fish in the lake has hitherto always been let for terms of three years, was in May last only let for the period ending on the 1st April next.

The only military buildings at Bizerta are twenty huts, which will hold 1,000 men. The garrison is a weak one, consisting only of a company of garrison artillery. More huts to hold another 1,000 men are being built.

The only ships of war permanently stationed at Bizerta are a small torpedo-boat and another small vessel.

November 14, 1889.

No. 227.

The Earl of Lytton to the Marquis of Salisbury.—(Received November 29.)

(No. 523.)

My Lord,

Paris, November 26, 1889.

I HAVE the honour to transmit to your Lordship copy of M. Spuller's reply to the note I addressed to his Excellency on the receipt of your Lordship's despatch No. 348 of the 14th August, expressing the hope that the French authorities at Tunis might be directed to allow General Ben Ayad to have access to certain documents deposited at the French Residency for the purpose of taking copies of them, to be used in support of an action for the recovery of a large sum of money apparently due to him.

Guided by a Report on the subject by the French Resident in Tunis, the Minister for Foreign Affairs observes, in the first place, that General Ben Ayad has means of obtaining copies of the documents in question independently of the Tunisian authorities, inasmuch as the first of these documents, viz., the statement of his own claims and conclusions, must have been preserved by his counsel; while the second, viz., the statement of the Tunisian claims and conclusions, was duly communicated to him on the occasion of the arbitration; and the third, viz., the receipt given by him to M. Ménant, is presumably obtainable from that gentleman.

The French Government, moreover, M. Spuller adds, are not disposed to grant any special facilities to the General, who has lost no opportunity of endeavouring to escape from the consequences of an arbitration, to which they consented, at his own request, in order to give proof of their conciliatory disposition towards Her Majesty's Government.

I have, &c.

(Signed) LYTTON.

Inclosure in No. 227.

M. Spuller to the Earl of Lytton.

M. l'Ambassadeur,

Paris, le 23 Novembre, 1889

VOTRE Excellence a bien voulu me signaler, par sa lettre du 18 Août dernier, une requête, par laquelle le Général Hamida Ben Ayad demande communication de certains documents relatifs à son ancien différend avec le Gouvernement Tunisien, et qui auraient été déposés dans les archives de la Résidence Générale. L'intéressé désirait ainsi recevoir copie de ses conclusions, de la décision des arbitres, des conclusions du Gouvernement Beylical, et, enfin, du reçu qui a été donné à M. Ménant, Secrétaire du Tribunal Arbitral, pour les pièces délivrées par ce dernier.

Notre Représentant dans la Régence que je m'étais empressé de saisir de cette demande, m'a soumis les observations suivantes, dont je crois devoir vous donner connaissance.

Tout d'abord, le Général Ben Ayad n'a pas besoin de recourir à l'intervention du Gouvernement Tunisien pour se procurer les documents dont il s'agit, attendu que ses propres conclusions ont dû être conservés par son avocat; celles du Gouvernement Tunisien lui ont été régulièrement notifiées, et l'original de la décision des arbitres se trouve déposé au greffe du Tribunal de Tunis. Quant au reçu délivré à M. Ménant, ce dernier qui n'est plus, depuis plusieurs années déjà à Tunis, a dû conserver cette pièce pour sa décharge personnelle, et c'est à lui que Ben Ayad avait continuellement à s'adresser pour en obtenir une copie.

D'autre part, M. Regnault rappelle que depuis le jour où ces deux arbitres constitués par les Gouvernements Français et Anglais ont été d'accord pour condamner le Général Ben Ayad, ce dernier n'a pas cessé d'essayer, par tous les moyens possibles, d'échapper à l'exécution de ce Jugement. Je n'ai pas besoin d'exposer à votre Excellence combien cette manière de procéder est regrettable, alors surtout que Ben Ayad avait, comme vous le savez, demandé lui-même, à titre de dérogation spéciale, la constitution de l'arbitrage dont il s'agit. Nous n'y avons consenti, de notre côté, que pour donner au Gouvernement de Sa Majesté la Reine une preuve de nos dispositions conciliantes; mais il était bien convenu que Ben Ayad accepterait du moins la sentence des arbitres. Or, il est loin d'en être ainsi, et vous penserez sans doute avec moi que le Général

Hamida-ben-Ayad ne saurait recevoir des facilités qui lui promettent d'éluder plus longtemps les engagements qu'il a pris spontanément en 1884.

Dans le cas où le Gouvernement Anglais hésiterait à partager cette manière de voir, je ne pourrais que prier votre Excellence de se référer aux précédents de l'affaire Ben Ayad, et notamment aux appréciations dont la conduite de ce personnage a été l'objet, non seulement de la part de notre arbitre, mais aussi de la part de Sir Adrian Dingli, l'arbitre du Gouvernement de Sa Majesté la Reine.

Agréer, &c.
(Signé) E. SPULLER.

No. 228.

Memorandum by Mr. Streatfeild.

Mixed Tribunal. Permanent appointment of Judges, &c.

ARTICLE 1 of the Decree of the 14th June, 1886 (12 Ramadan, 1303), which is abrogated by the Decree of the 8th November, 1889, is worded as follows:—

"Les fonctions de Président et celles des membres du Tribunal Mixte sont conférées pour une année à partir du 1^{er} Août, 1886."

Article 33 of the Law respecting real property, of the 1st July, 1885 (19 Ramadan, 1302), which is referred to in both of the Decrees sent home by Mr. Hay, is thus worded:—

"Section III.—Des Oppositions à l'Immatriculation.

"§ 1. Composition du Tribunal Mixte.

"Article 33. Les pièces envoyées par le Caïd et le Juge de Paix conformément à l'Article 28 ci-dessus seront transmises par le Conservateur avec les oppositions formées directement entre ses mains, au greffe d'un Tribunal Mixte composé d'un Président, de six membres, et d'un Greffier, nommés par Son Altesse le Bey. Le Président du Tribunal Mixte sera un Magistrat Français, nommé sur la proposition du Ministre Résident de France à Tunis. Les membres seront proposés, trois par le Tribunal Français, trois par le Châra, ou à son défaut par le Gouvernement Tunisien. Le Greffier sera nommé sur la proposition du Tribunal Français.

"Le Conservateur transmettra également au greffe de ce Tribunal, dès qu'il lui sera remis, le plan déposé en exécution de l'Article 29 ci-dessus."

Nothing is said in the above Article as to the period for which the Judges were to be appointed, but this and other details appear to have been settled by the Decree of the 14th June, 1886, the first Article of which has now been abrogated by the present Decree.

I cannot find that any objection was made at the time on the part of Her Majesty's Government either to the Law of 1885 respecting real property or to the Decree of the 14th June, 1886, although since that period a considerable correspondence has taken place on the subject of real property in Tunis, and especially with regard to the Decree of the 17th July, 1888, which was alleged to revoke the authority of the French Tribunals to review the decisions of the Mixed Local Tribunals.

In 1887-88 the Powers of the Mixed Tribunal appear to have been prorogued by Decree from time to time (see accompanying vol., p. 358, and Supplement to ditto, p. 96.)

(Signed) FREDK. H. T. STREATFEILD.
Foreign Office, November 29, 1889.

"Dictionnaire de la Législation Tunisienne."

Mr. R. D. Hay, No. 57, November 16, 1889.

Ibid., p. 288.

Ibid.

Ibid., p. 357.

No. 229.

Foreign Office to Messrs. A. F. and R. W. Tweedie.

Foreign Office, December 5, 1889.

Gentlemen,

WITH reference to my letter of the 19th July last and to previous correspondence, in regard to General Ben Ayad's application for copies of certain papers deposited at the French Residency in Tunis, I am directed by the Marquis of Salisbury to inform you that Her Majesty's Ambassador in Paris has represented the matter to the French Government, but that they have declined to grant the General any special facilities for engaging in litigation in connection with the questions that were referred to the arbitration of Sir A. Dingle and M. de Blignières.

I am to state that the question whether General Ben Ayad is or is not legally entitled to be furnished with copies of the documents which he requires, by the persons in whose custody they are now deposited, depends upon the law in force in Tunis; and must be decided by the proper Judicial authority in the Regency, to which it is open to him to apply.

I am, in conclusion, to express Lord Salisbury's regret that he cannot interfere further in the case.

I am, &c.
(Signed) P. CURRIE.

No. 230.

Consul Drummond Hay to the Marquis of Salisbury.—(Received December 9.)

(No. 60.)

My Lord,

Tunis, November 29, 1889.

I HAVE the honour to report to your Lordship that, in a conversation, on the 26th instant, with the Italian Consul-General, Count Macchiavelli, he informed me that the municipal authorities had again entered the domiciles of Italian subjects for the purpose of preventing the sale of adulterated food and liquors, and that they had changed their mode of procedure—the persons employed by the Municipality being furnished with orders from the "Juge d'Instruction."

Count Macchiavelli added that, according to Article II of the Franco-Italian Agreement, regulating the provisional jurisdiction of French Tribunals in Tunis, the authorities had no power to enter the domicile of an Italian subject without a Judgment from the said Tribunal. He had, therefore, represented the matter to the French Resident, and hoped that I would take similar action on behalf of British subjects, as M. Massicault was supporting the Municipality.

I replied that, judging from the instructions already received on such questions from Her Majesty's Government, I thought it advisable to abstain from any interference with the municipal authorities in the introduction of justifiable sanitary improvements for the benefit of the town.

Count Macchiavelli also remarked that the Sicilians, who import a large quantity of wine from their country, believed that the object of the Municipality was to disqualify the sale of their wines, which compete in the Tunisian market with those of native growth, to the disadvantage of the latter. That, in order to carry out their plans, an order had been issued forbidding the sale of wines containing more than 3 per cent. of chalk ("plâtre"), whilst it was well known that a large quantity of the cheap wines imported from Sicily are mixed with a higher percentage of that ingredient.

As many British subjects in Tunis are dealers in Sicilian wines I inquired into the matter, and ascertained, on good authority, that wines mixed with more than 3 per cent. of chalk, which is employed for clarifying purposes, are rendered very unwholesome. It would appear, therefore, that, whatever the ulterior objects of the Municipality may be, the Regulations in themselves are beneficial from a sanitary point of view.

I have, &c.
(Signed) R. DRUMMOND HAY.

No. 231.

Messrs. Tweedie to Foreign Office.—(Received December 16.)

Dear Sir,

5, Lincoln's Inn Fields, London, December 14, 1889.

WE have the honour to acknowledge receipt of your letter of the 5th instant in reference to the affairs of General Ben Ayad, of the contents of which the General has been apprized.

We much regret that the French Government have declined to extend to General Ben Ayad any help in the matter, and on his behalf we beg to express his thanks to the Marquis of Salisbury for the attention and consideration he has devoted to the General's interests.

We are, &c.

(Signed) A. F. AND R. W. TWEEDIE.

No. 232.

Foreign Office to Consul Drummond Hay.

(No. 50.)

Sir,

Foreign Office, December 28, 1889.

I AM directed by the Marquis of Salisbury to acknowledge the receipt of your despatch No. 60 of the 29th ultimo, reporting a conversation you have held with your Italian colleague on the subject of the proceedings of the Tunis municipal authorities in connection with the working of certain sanitary measures.

His Lordship approves of your language to Count Macchiavelli, and of your having declined to protest against the domiciles of British subjects being entered by municipal employes acting under orders from the "Juge d'Instruction."

I am, &c.

(Signed) T. H. SANDERSON.